



Weekly Legislative Report

AWEC

February 3, 2019

Legislative Pace Remains Brisk in Week Three

An amended version of 100% Clean Energy (SSB 5116) has been voted out of the Senate Environment, Energy & Technology Committee along party lines, but not before some significant improvements were made to control costs and address reliability concerns. Another big change made in committee was preserving the authority consumer-owned utilities, primarily Public Utility Districts, have to condemn and by public vote take over territories served by the investor owned utilities. It's a long running fight, and we probably haven't heard the last of it.

Working with the Governor's Office, the utilities and other stakeholders, AWEC was also able to clarify how market customers are treated. The original bill was silent! It was unavoidable that new market customers would be required to meet the same standards, but those already granted direct access needed to be grandfathered. It's not all our preferred language, but it works. We're now focused on trying to preserve options for industrial customers to gain direct access, self-generate and benefit from a thermal renewable energy credit.

The companion measure (HB 1211) is scheduled for executive action in the House Environment & Energy Committee this week. It's the same panel that has already voted along party lines to adopt the provisions in the Paris Climate Accord and reduce greenhouse gas emissions by 80% compared to 1990-levels by 2050.

A carbon fee for transportation and cap-and-trade framework are still being discussed in the background, but both seem less likely to gain traction as the days pass. As a result, there isn't any real opportunity to pursue and exemption for energy-intensive, trade-exposed sectors. We're at the ready, should that change...

Upcoming Events

Environment & Energy (House) - HHR B, JLOB - 2/4 @ 1:30pm

- HB 1512 - Public Hearing - Concerning the electrification of transportation.
- HB 1625 - Public Hearing - Clarifying the valuation and determination of used and useful property for rate making purposes.

Environment & Energy (House) - HHR B, JLOB - 2/5 @ 3:30pm

- HB 1211 - Exec Session - Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.
- HB 1226 - Exec Session - Encouraging investment in and reducing the costs of transitioning to the clean energy future.
- HB 1257 - Exec Session - Concerning energy efficiency.

Ways & Means (Senate) - SHR 4, JACB - 2/5 @ 3:30pm

- SSB 5223 - Public Hearing - Concerning net metering.

Environment, Energy & Technology (Senate) - SHR 1, JACB - 2/6 @ 8:00am

- SB 5629 - Public Hearing - Promoting small modular reactors in Washington.
- SB 5347 - Public Hearing - Concerning claims about climate change made by electric utilities.

Rural Development, Agriculture, & Natural Resources (House) - HHR B, JLOB - 2/6 @ 8:00am

- HB 1334 - Exec Session - Concerning electric utility wildland fire prevention.

Environment & Energy (House) - HHR B, JLOB - 2/7 @ 8:00am

- HB 1549 - Public Hearing - Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.
- HB 1211 - Exec Session - Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.
- HB 1226 - Exec Session - Encouraging investment in and reducing the costs of transitioning to the clean energy future.
- HB 1257 - Exec Session - Concerning energy efficiency.

Bill Tracking Summary

<u>Bill Details</u>	<u>Status</u>	<u>Sponsor</u>	<u>Priority</u>	<u>Position</u>	
Natural gas tax treatment (SB 5108)	H Finance Concerning the tax treatment of renewable natural gas.	Mosbrucker	Monitoring	Neutral	
HB 1070 (SB 5108)	<i>Summary:</i> Provides a public utility tax exemption on the sale by a gas distribution business of renewable natural gas. States that the sale of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas by a gas distribution business, are not exempt from business and occupation taxes under certain circumstances.				
HB 1102 (SB 5134)	Capital budget 2019-2021 Concerning the capital budget. <i>Summary:</i> Funds capital projects.	H Cap Budget	Tharinger	Monitoring	Neutral
HB 1108 (SB 5154)	Supp. operating budget 17-19 Making 2017-2019 biennium second supplemental operating appropriations.	H Approps	Ormsby	Monitoring	Neutral

Summary: Makes 2017-2019 biennium second supplemental operating appropriations.

HB 1109 (SB 5153)	Operating budget 2019-2021	H Approps	Ormsby	High	Neutral
Making 2019-2021 biennium operating appropriations.					

Summary: Makes 2019-2021 biennium operating appropriations.

SHB 1110 (SB 5412)	Greenhouse gas/transp. fuels	H Trans	Fitzgibbon	Monitoring	Neutral
Reducing the greenhouse gas emissions associated with transportation fuels.					
<i>Summary:</i> Supports the deployment of clean transportation fuel technologies through a carefully designed program that reduces the carbon intensity of fuel used in the state, in order to: (1) Reduce levels of conventional air pollutants from diesel and gasoline that are harmful to public health; (2) Reduce greenhouse gas emissions associated with transportation fuels, which are the state's largest source of greenhouse gas emissions; and (3) Create jobs and spur economic development based on innovative clean fuel technologies. Requires the joint legislative audit and review committee to: (1) Analyze, by December 1, 2027, the impacts of the initial five years of clean fuels program implementation; and (2) Submit a report to the legislature that summarizes the analysis.					

SHB 1113	Greenhouse emission limits	H ENVIDPS	Slatter	Medium	Concerns
Amending state greenhouse gas emission limits for consistency with the most recent assessment of climate change science and with the United States' commitment under the 2015 Paris climate agreement.					

Summary:

HB 1126	Distributed energy	H ENVIDP	Morris	Monitoring	Neutral
Enabling electric utilities to prepare for the distributed energy future.					
<i>Summary:</i> Declares that the policy of the state, that a distributed energy resources planning process engaged in by an electric utility, should accomplish the following: (1) Identify the data gaps that impede a robust planning process as well as any upgrades; (2) Propose monitoring, control, and metering upgrades; (3) Identify potential programs and tariffs to fairly compensate customers for the value of their distributed energy resources; (4) Forecast the growth of distributed energy resources on the utility's distribution system; (5) Provide a ten-year plan for distribution system investments and an analysis of nonwires alternatives for major transmission and distribution investments; and (6) Include the distributed energy resources in the plan in the utility's integrated resource plan. Requires the legislature to, by January 1, 2023, conduct an initial review of the state's policy pertaining to distributed energy resources planning.					

HB 1127	Transp. electrification	H Env & Energy	Morris	Medium	Concerns
Concerning the electrification of transportation.					
<i>Summary:</i> Authorizes the governing authority of an electric utility, formed under chapter 35.92 RCW (municipal utilities), and the commission of a public utility district to adopt a transportation electrification plan. Requires the department of commerce to arrange for a study of utility capital expenditures projected to be driven by growth in distributed resources, including photovoltaic systems, electric vehicles, and other customer-owned technologies identified as likely to cause a shift in capital expenditures. Requires the study to survey each of the state's utilities and include a low and high adoption scenario for each resource. Provides that this act is null and void if appropriations are not approved.					

	Electric & nat gas companies Authorizing an alternative form of regulation of electrical and natural gas companies.	H Env & Energy	Morris	Medium	Concerns
HB 1128	<i>Summary:</i> Authorizes the utilities and transportation commission to regulate an electrical or gas company by authorizing an alternative form of regulation. Requires electrical companies, gas companies, multistate electric companies, and/or the commission to use the greenhouse gas planning adder under certain circumstances.				
	Customer-sited electricity Concerning customer-sited electricity generation.	H Env & Energy	Morris	Monitoring	Neutral
HB 1129	<i>Summary:</i> Authorizes an electric utility to: (1) Offer to make net metering available to eligible customer-generators with large net metering systems or small net metering systems; (2) Offer an alternative to net metering for customer-generators with large net metering systems or small net metering systems in all or certain increments of the utility's distribution system; and (3) Use net metering credits to assist qualified low-income residential customers of the electric utility in paying their electricity bills. Places responsibility on a customer-generator for the purchase of a production meter and software if it is required by the electric utility to provide meter aggregation. Requires customer billings issued by certain light or power businesses or gas distribution businesses to include the total amount of kilowatt-hours of electricity consumed for the most recent twelve-month period.				
	Clean energy Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.	H Env & Energy	Tarleton	High	Concerns
HB 1211 (SSB 5116)	<i>Summary:</i> Establishes the Washington clean energy transformation act. Addresses the elimination of coal-fired electricity and the transition of the state's electricity supply to one hundred percent carbon neutral by 2030. Provides that it is the policy of the state that all retail sales of electricity to the state's customers be greenhouse gas neutral by January 1, 2030. Requires the department of commerce to convene an energy and climate policy advisory committee to develop recommendations to the legislature for the coordination of existing resources, or the establishment of new ones, to: (1) Examine the costs and benefits of energy-related policies, programs, functions, activities, and incentives; and (2) Conduct other energy-related studies and analyses as may be directed by the legislature. Requires the department of health to conduct a cumulative impact analysis to designate the communities highly impacted by fossil fuel pollution and climate change.				
	Clean energy Encouraging investment in and reducing the costs of transitioning to the clean energy future.	H Env & Energy	DeBolt	Medium	Neutral
HB 1226	<i>Summary:</i> Establishes the carbon free Washington act. Reduces the cost of transitioning to electric generation sources that have very low or zero carbon dioxide emissions. Provides sales and use tax preferences to reduce the cost to ratepayers of constructing and operating new renewable energy generation capacity equal to or greater than necessary to serve projected electricity load growth. Repeals chapter 19.285 RCW (the energy independence act) and provides a contingent effective date for the repeal.				
	Hydroelectricity/renewable Recognizing hydroelectricity as an eligible renewable resource in the energy independence act.	H Env & Energy	Griffey	Medium	Support
HB 1232	<i>Summary:</i> Revises the definition of "eligible renewable resource," for purposes of the energy independence act, to include electricity from a generation facility powered by water that commenced operation before March 31, 1999, where the facility is located in the Pacific Northwest.				
HB 1257	Energy efficiency	H Env & Energy	Doglio	Monitoring	Concerns

(SB 5293) Concerning energy efficiency.

Summary: Increases energy efficiency and the use of renewable fuels that reduce the amount of greenhouse gas emissions in the state and provides a public utility tax credit against the taxes owing by utilities for the incentives provided for the implementation by eligible building owners of energy efficiency and renewable energy measures. Requires the department of commerce to: (1) Establish by rule a state energy performance standard for covered commercial buildings; and (2) Establish a state energy performance standard early adoption incentive program. Requires each qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program. Allows a light and power business or a gas distribution business a public utility tax credit against certain taxes due. Requires each gas company to identify and acquire all conservation measures that are available and cost-effective. Requires the utilities and transportation commission to establish a schedule of annual minimum renewable natural gas acquisition targets for each gas company as a percentage of the company's total quantity sales to retail customers. Permits a city, town, or county to adopt additional residential energy code requirements as developed by the state building code council. Requires the state building code council to adopt certain optional efficiency appendices and include them in the state energy code for residential buildings.

HB 1332 Energy site eval. council H Env & Energy Wylie Monitoring Neutral
(SB 5329) Concerning updating and streamlining energy facility site evaluation council operations.

Summary: Streamlines and updates the operations of the energy facility site evaluation council.

HB 1334 Electric util wildland fires H RDev, Ag&NR Blake Monitoring Neutral
(SB 5305) Concerning electric utility wildland fire prevention.
Summary: Requires the commissioner of public lands to convene a utility wildland fire prevention task force with electrical power distribution utilities, and requires the task force to advise the department of natural resources on certain issues including electric utility wildland fire prevention.

HB 1512 Transp. electrification H Env & Energy Fey Medium Concerns
Concerning the electrification of transportation.
Summary:

HB 1549 Greenhouse emissions eval. H Env & Energy Blake Monitoring Neutral
(SB 5561) Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.
Summary:

HB 1597 Greenhouse gas/fossil fuels H Env & Energy Pollet Monitoring Neutral
Incorporating comprehensive measurements of greenhouse gas emissions from certain fossil fuels into state environmental laws.
Summary:

HB 1625 Utility rate making/property H Env & Energy Fitzgibbon Medium Support
Clarifying the valuation and determination of used and useful property for rate making purposes.
Summary:

	On-bill repayment programs	H Env & Energy	Doglio	Monitoring	Neutral
HB 1642	Allowing the energy savings associated with on-bill repayment programs to count toward a qualifying utility's energy conservation targets under the energy independence act.				
<i>Summary:</i>					
	Electric transportation	H Env & Energy	Slatter	Monitoring	Neutral
HB 1664 (SB 5336)	Advancing electric transportation.				
<i>Summary:</i>					
	Biochar	H Rules R	Shea	Monitoring	Neutral
HJM 4000 (SJM 8005)	Supporting the continued research, development, production, and application of biochar from our forests and agricultural lands.				
<i>Summary:</i> Supports the continued research, development, production, and application of biochar from our forests and agricultural lands.					
	Natural gas tax treatment	S Environment, E	King	Monitoring	Neutral
SB 5108 (HB 1070)	Concerning the tax treatment of renewable natural gas.				
<i>Summary:</i> Provides a public utility tax exemption on the sale by a gas distribution business of renewable natural gas. States that the sale of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas by a gas distribution business, are not exempt from business and occupation taxes under certain circumstances.					
	Clean energy	S Ways & Means	Carlyle	High	Concerns
SSB 5116 (HB 1211)	Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.				
<i>Summary:</i> Establishes the Washington clean energy transformation act to support the clean energy economy and to transition to a clean, affordable, and reliable energy future.					
	Self-generated electricity	S Rules 2	Palumbo	Monitoring	Neutral
SB 5118	Concerning the right to consume self-generated electricity.				
<i>Summary:</i> Prohibits an electric utility from establishing compensation arrangements or interconnection requirements, other than those permitted in chapter 80.60 RCW (net metering of electricity), for a customer-generator that would have the effect of limiting the ability of a customer-generator to generate or store electricity for consumption on its premises.					
	Revenue	S Ways & Means	Rolfes	Monitoring	Concerns
SB 5129 (HB 1343)	Increasing revenues for the support of state government.				
<i>Summary:</i> Imposes a tax on individuals for the privilege of selling or exchanging long-term capital assets or receiving Washington capital gains. Allows a business and occupation tax deduction against a person's gross income of the business to the extent necessary to avoid taxing the same amounts under chapter 82.04 RCW and section 102 of this act. Authorizes the department of revenue to enter into reciprocal tax collection agreements with the taxing officials of any other state imposing a specified tax. Increases the business and occupation tax rate on certain services.					

	Capital budget 2019-2021 Concerning the capital budget.	S Ways & Means	Frockt	Monitoring	Neutral
SB 5134 (HB 1102)	<i>Summary:</i> Funds capital projects.				
	Hydraulic fracturing Concerning the use of hydraulic fracturing in the exploration for and production of oil and natural gas.	S Rules 2	Salomon	Monitoring	Neutral
SB 5145	<i>Summary:</i> Prohibits the use of hydraulic fracturing in the exploration for and production of oil and natural gas.				
	Operating budget 2019-2021 Making 2019-2021 biennium operating appropriations.	S Ways & Means	Rolfes	High	Neutral
SB 5153 (HB 1109)	<i>Summary:</i> Makes 2019-2021 biennium operating appropriations.				
	Supp. operating budget 17-19 Making 2017-2019 biennium second supplemental operating appropriations.	S Ways & Means	Rolfes	Medium	Neutral
SB 5154 (HB 1108)	<i>Summary:</i> Makes 2017-2019 biennium second supplemental operating appropriations.				
	PUD contracting Concerning public utility districts' contracts for work or materials.	S Local Government	Takko	Monitoring	Neutral
SB 5191 (HB 1222)	<i>Summary:</i> Addresses a public utility district's contracts for work or materials.				
	Transportation budget 19-21 Making transportation appropriations for the 2019-2021 fiscal biennium.	S Transportation	Hobbs	Monitoring	Neutral
SB 5214 (HB 1160)	<i>Summary:</i> Makes transportation appropriations for the 2019-2021 fiscal biennium.				
	Electrical net metering Concerning net metering.	S Ways & Means	Palumbo	Monitoring	Neutral
	<i>Summary:</i> Modifies certain net metering of electricity provisions. Increases the minimum threshold for the cumulative generating capacity that a utility must make available for net metering systems. Requires unused kilowatt-hour credits to be used to assist qualified low-income residential customers of the electric utility in paying their electric bills. Requires the amount of kilowatt-hours of electricity consumed for the most recent twelve-month period to appear on customer billing statements. Requires the state building code council, in consultation with the department of commerce and local governments, to conduct a study of the state building code and adopt changes necessary to encourage greater use of renewable energy systems. Requires the department of commerce to convene a work group to identify issues and laws associated with the future of net metering. Provides a June 30, 2021, expiration date for the work group.				
	Energy efficiency Concerning energy efficiency.	S Environment, E	Carlyle	Monitoring	Concerns
SSB 5223	<i>Summary:</i> Increases energy efficiency and the use of renewable fuels that reduce the amount of				
SB 5293 (HB 1257)					

greenhouse gas emissions in the state and provides a public utility tax credit against the taxes owing by utilities for the incentives provided for the implementation by eligible building owners of energy efficiency and renewable energy measures. Requires the department of commerce to: (1) Establish by rule a state energy performance standard for covered commercial buildings; and (2) Establish a state energy performance standard early adoption incentive program. Requires each qualifying utility to administer incentive payments for the state energy performance standard early adoption incentive program. Allows a light and power business or a gas distribution business a public utility tax credit against certain taxes due. Requires each gas company to identify and acquire all conservation measures that are available and cost-effective. Requires the utilities and transportation commission to establish a schedule of annual minimum renewable natural gas acquisition targets for each gas company as a percentage of the company's total quantity sales to retail customers. Permits a city, town, or county to adopt additional residential energy code requirements as developed by the state building code council. Requires the state building code council to adopt certain optional efficiency appendices and include them in the state energy code for residential buildings.

SB 5329 (HB 1332)	Energy site eval. council Concerning updating and streamlining energy facility site evaluation council operations.	S Rules 2	Nguyen	Monitoring	Neutral
<i>Summary:</i> Streamlines and updates the operations of the energy facility site evaluation council.					

SB 5336 (HB 1664)	Electric transportation Advancing electric transportation.	S Environment, E	Palumbo	Medium	Concerns
<i>Summary:</i> Provides a sales and use tax exemption on electric vehicles. Requires the department of ecology to adopt the zero emission vehicle program regulations contained in Title 13, section 1962, 1962.1, and 1962.2 of the California Code of Regulations. Declares an intent to provide clear authority for utilities to engage in and promote the build out of electric vehicle infrastructure. Requires utilities that are traditionally responsible for providing electric service to customers and for understanding and engineering the electrical grid for safety and reliability to be engaged in the electrification of the transportation system. Authorizes certain cities or towns that are engaged in the generation, sale, or distribution of energy to, for its customers: (1) Assist in financing materials and equipment for the electrification of transportation; and (2) Offer programs, services, or investments in the electrification of transportation in a way that benefits ratepayers. Permits an electric utility to submit an electrification of transportation plan, to the utilities and transportation commission, that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation. Creates the electric vehicle account.					

SB 5347	Electric utilities/climate Concerning claims about climate change made by electric utilities.	S Environment, En	Ericksen	Monitoring	Neutral
<i>Summary:</i> Prohibits an electric utility from advertising or offering a benefit, program, or service in terms indicating that the benefit, program, or service will slow or stop, or in any similar way affect, climate change.					

SB 5561 (HB 1549)	Greenhouse emissions eval. Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.	S Environment, E	Takko	Monitoring	Neutral
<i>Summary:</i>					

SB 5629	Small modular reactors	S Environment,	Brown	Monitoring	Neutral
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Promoting small modular reactors in Washington.

Summary:

Solid waste/renewable energy	S Environment, E	Fortunato	Monitoring	Neutral
<u>SB 5747</u>	Studying the use of solid waste to produce renewable energy.			

Summary:

Biochar	S Ag/Water/Natur	Short	Monitoring	Neutral
<u>SJM 8005</u> (HJM 4000)	Supporting the continued research, development, production, and application of biochar from our forests and agricultural lands.			

Summary: Supports the continued research, development, production, and application of biochar from our forests and agricultural lands.

DAVID DANNER	S Rules 2	Monitoring	Neutral
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SGA 9253

Summary: DAVID DANNER, reappointed January 02, 2019, for a term ending January 01, 2025, as Chair of the Utilities and Transportation Commission.



Oregon Weekly Report

February 4, 2019

The Oregon legislature wrapped up week number two. This week, LC 894, the cap-and-trade bill, was released. Legislation will be first read next week and has already been assigned a bill number, House Bill 2020. This kickstarts the long-awaited debate over cap-and-trade in Oregon. Republican legislators are pushing for hearings in communities across the state and complaining that they and consumers have been left out of the crafting of the bill. Introduction of the bill kicks off discussion on what is likely to be the most controversial issue of the 2019 legislative session.

What Happened this Week at the Oregon Capitol

- **Carbon:** On Friday, the Joint Committee on Carbon Reduction met. LC 894 was introduced by the committee. Senator Bentz and Senator Girod opposed introduction of the bill concept. Legislative Counsel walked through the bill, providing a section-by-section analysis and answered legislators' technical questions. Legislative Counsel stated that the bill is not a revenue raising measure, and therefore it can be passed by a simple majority of legislators in each chamber. The bill will be introduced in the House next week and will be HB 2020.

AWEC is analyzing the bill and the potential impacts it will have on member companies and will have material available as soon as possible.

Helpful Links: A summary of the bill was provided by the Carbon Policy Office. The Carbon Policy Office also has additional information posted on the proposal.

- Carbon Policy Office Link: https://www.oregon.gov/gov/pages/carbonpolicy_index.aspx
- Carbon Bill Summary Link:
https://www.oregon.gov/gov/Documents/OregonClimateActionProgram_CoreElements_Summary.pdf
- **Work Session on SB 38:** This week, the Senate Committee on Environment and Natural Resources passed SB 38 out of committee. This measure clarifies that thermal energy RECs can be applied toward RPS compliance. Thermal energy would have the same requirements as electric generation under SB 38. The bill is now scheduled for a floor vote in the Senate.
- **OPUC Fee Increase:** AWEC submitted written testimony in support of the Oregon Public Utility Commissions' budget bill, SB 5534. The PUC seeks an increase in the annual utility fee from 0.30

percent of a utility's gross operating revenue to a maximum of 0.45 percent for energy and water utilities. Funding will help address staffing levels needed for the PUC to do their job and maintain experienced staff. No further action is scheduled at this point.

- **Social Equity and Electricity Rates (HB 2242):** The House Committee on Energy and Environment held a second public hearing on HB 2442 this week. The PUC believes that they lack the authority to provide bill discounts and other assistance to low-income customers, which happens in other states. The bill attempts to address this issue by giving the PUC more powers that would require them to consider things like differential energy burdens, social equity, and environmental justice. The bill would also create a new position for a low-income and "environmental justice" advocate within the PUC to have permanent standing to intervene on behalf of low-income customers and the "environmental justice" community. The term "environmental justice" is not defined in the legislation. AWEC is watching this legislation carefully as it could result in cost-shifting of rates to large energy users.

What's Going on Next Week

- **Carbon:** The Joint Committee on Carbon Reduction cancelled this Monday's carbon hearing in order to give committee members time to study and absorb the new cap-and-trade legislation. On Friday, February 8th, the committee will release and review the BEAR economic report. The first panel of invited organizations will testify on House Bill 2020 at that hearing, including AWEC's Ed Finklea. The following Monday, February 11th, the committee will hear more from invited panelists, including impacted industrial facilities. The first public hearing on the bill concept will be held on February 15th.
- **Senate Environment and Natural Resources:** On Thursday, the Senate Environment and Natural Resources Committee will hold a public hearing on Senate Bill 98. That bill would require the PUC to adopt by rule a voluntary renewable gas program for natural gas utilities. AWEC is tracking this legislation carefully and plans to testify. AWEC is concerned the legislation could enable natural gas utilities to recoup costs from ratepayers for renewable gas generation infrastructure. AWEC has shared its concerns with NW Natural in previous meetings.
- **House Energy and Environment:** The House will hold an informational hearing on a Senate Bill 978 report. The report focuses on actively adapting to the changing energy sector. Megan Decker, Chair of the Oregon Public Utility Commission, and Julie Peacock, Director of Policy, for the PUC will present.

Bills AWEC is Tracking

Alliance of Western Energy Consumers

[**HB 5044**](#) **Position** **Priority**

[**Bill Info**](#) Oppose 1

Summary: Appropriates moneys from General Fund to Oregon Climate Authority for biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by authority. Limits biennial expenditures by authority from certain lottery moneys. Limits biennial expenditures by authority from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.

1/23/19 H - Assigned to Subcommittee On Natural Resources.

1/15/19 H - Referred to Ways and Means.

1/14/19 H - First reading. Referred to Speaker's desk.

[**SB 0089**](#) **Position** **Priority**

[**Bill Info**](#) Oppose 1

Summary: Requires Environmental Quality Commission to adopt by rule program for assessing net impacts of state policies and programs for reducing greenhouse gas emissions. Declares emergency, effective on passage.

1/15/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB 0098</u>	Position	Priority
<u>Bill Info</u>	Monitor	1
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
2/7/19	S - Public Hearing Scheduled.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB 0220</u>	Position	Priority
<u>Bill Info</u>	Oppose	1
Summary:	Requires Department of Environmental Quality to conduct study related to greenhouse gas emissions. Sunsets January 2, 2022.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB 0598</u>	Position	Priority
<u>Bill Info</u>	Oppose	1
Summary:	Changes name of Oregon Global Warming Commission to Oregon Climate Change Commission. Requires commission to appoint executive director. Appropriates moneys to commission for purposes related to executive director of commission. Modifies certain duties of commission and of certain nonvoting members of commission. Modifies certain duties of certain agencies of state government with regard to duties of commission.	
1/17/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB 0636</u>	Position	Priority
<u>Bill Info</u>	Monitor	1
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
1/25/19	S - Referred to Environment and Natural Resources.	
1/22/19	S - Introduction and first reading. Referred to President's desk.	

<u>HB 2093</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:	Permits Oregon Department of Administrative Services to contract with other entity, and to participate in, sponsor, conduct or administer cooperative procurements, for purpose of acquiring, installing, maintaining or operating devices or facilities to deliver electricity to public for electric motor vehicles. Specifies that solely for purpose of contracting agency's participating in, sponsoring, conducting or administering cooperative procurement, device or facility for delivering electricity to public for electric motor vehicles is not public improvement. Becomes operative on January 1, 2020. Takes effect on 91st day following adjournment sine die.	
1/28/19	H - Public Hearing held.	
1/15/19	H - Referred to Rules.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB 2242</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:	Authorizes Public Utility Commission to consider differential energy burden and other inequities of affordability in rates. Authorizes public utilities to enter agreements to provide financial assistance for organizations to represent in regulatory proceedings before commission interests of low-income customers and customers that are members of environmental justice communities. Establishes Office of the Low-Income and Environmental Justice Advocate within commission. Authorizes office to intervene in certain proceedings. Directs commission to establish public process for investigating ways to address and mitigate differential energy burdens on classes of electric company customers and other inequities of affordability. Requires commission to report findings to interim committees of Legislative Assembly related to energy and business no later than September 15, 2020. Sunsets public process January 2, 2021.	

1/31/19 H - Public Hearing held.

1/15/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.

1/14/19 H - First reading. Referred to Speaker's desk.

HB 2322 **Position** **Priority**

Bill Info Monitor 2

Summary: Requires Land Conservation and Development Commission to amend statewide land use planning goals related to energy to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.

1/18/19 H - Referred to Energy and Environment.

1/14/19 H - First reading. Referred to Speaker's desk.

HB 2329 **Position** **Priority**

Bill Info Monitor 2

Summary: Modifies definition of "energy facility" for purposes of regulation of energy facilities by Energy Facility Siting Council. Broadens provisions for types of electric power generating plants that may elect to obtain site certificate from council if otherwise not required to obtain site certificate.

1/18/19 H - Referred to Energy and Environment.

1/14/19 H - First reading. Referred to Speaker's desk.

HB 2494 **Position** **Priority**

Bill Info Monitor 2

Summary: Extends operation of public purpose charges until January 1, 2036.

1/18/19 H - Referred to Energy and Environment.
1/14/19 H - First reading. Referred to Speaker's desk.

HB 2611 **Position** **Priority**

Bill Info Support 2

Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.

1/18/19 H - Referred to Energy and Environment.
1/14/19 H - First reading. Referred to Speaker's desk.

HB 2618 **Position** **Priority**

Bill Info Monitor 2

Summary: Requires State Department of Energy to adopt by rule program for providing rebates for purchase, construction or installation of residential and commercial solar electric systems and paired solar and storage systems. Sets forth rebate limits under program. Establishes Rooftop Solar Incentive Fund. Continuously appropriates moneys in fund to department to issue rebates. Limits total amount of rebates issued annually for commercial systems. Appropriates moneys from General Fund to department for deposit in Rooftop Solar Incentive Fund. Requires department to submit annual report on program to Legislative Assembly. Sunsets January 2, 2024. Takes effect on 91st day following adjournment sine die.

1/15/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.
1/14/19 H - First reading. Referred to Speaker's desk.

<u>HB 2791</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:	Modifies cost recovery formula for site certificate holders. Applies to annual fees due on and after July 1, 2020. Establishes Energy Facility Siting Task Force. Sunsets task force on December 31, 2020. Declares emergency, effective on passage.	
1/28/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/24/19	H - First reading. Referred to Speaker's desk.	

<u>HB 5017</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:	Appropriates moneys from General Fund to Department of Environmental Quality for certain biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, specified bond proceeds and specified federal funds, but excluding lottery funds and other federal funds, collected or received by department. Limits biennial expenditures from lottery moneys allocated from Parks and Natural Resources Fund to department. Authorizes specified nonlimited expenditures. Limits certain biennial expenditures by department from federal funds. Declares emergency, effective July 1, 2019.	
1/23/19	H - Assigned to Subcommittee On Natural Resources.	
1/15/19	H - Referred to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>SB 0038</u>	Position	Priority
<u>Bill Info</u>	Support	2
Summary:	Modifies provisions for treatment of renewable energy certificates issued for generation of thermal energy.	

1/31/19 S - Recommendation: Do pass.

1/31/19 S - Second reading.

1/29/19 S - Work Session held.

1/22/19 S - Public Hearing held.

1/15/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB 0068 **Position** **Priority**

Bill Info No Position 2

Summary: Increases annual fee imposed on public utilities and telecommunications providers for purpose of defraying costs of Public Utility Commission. Declares emergency, effective on passage.

1/31/19 S - Public Hearing and Work Session held.

1/15/19 S - Referred to Business and General Government.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB 0091 **Position** **Priority**

Bill Info Oppose 2

Summary: Requires at least 50 percent of public purpose charge funds paid to nongovernmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.

1/15/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB 0267</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:		Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2020. Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department formally declares default of payment of loan or that project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2020. Repeals certain provisions related to small scale local energy projects. Abolishes funds associated with provisions. Transfers moneys from abolished funds to Small Scale Local Energy Project Loan Fund. Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act. Repeals energy efficiency and sustainable technology loan program. Requires State Department of Energy to conduct audit of certain department activities. Declares emergency, effective on passage.
1/15/19		S - Referred to Environment and Natural Resources.
1/14/19		S - Introduction and first reading. Referred to President's desk.

<u>SB 0451</u>	Position	Priority
<u>Bill Info</u>	Monitor	2
Summary:		Establishes eligibility for renewable energy certificates for facilities that generate electricity from direct combustion of municipal solid waste and became operational before January 1, 1995, if such facilities register with Western Renewable Energy Generation Information System at any time.
1/28/19		S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.
1/25/19		S - Work Session held.
1/17/19		S - Referred to Carbon Reduction.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB 0503 **Position** **Priority**

Bill Info Support 2

Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.

1/16/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB 0508 **Position** **Priority**

Bill Info Support 2

Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.

1/16/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB 5534 **Position** **Priority**

Bill Info Monitor 2

Summary: Limits certain biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Public Utility Commission of Oregon. Limits biennial expenditures by commission from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.

1/30/19 S - Public Hearing held.

1/23/19 S - Assigned to Subcommittee On Transportation and Economic Development.

1/15/19 S - Referred to Ways and Means.

1/14/19 S - Introduction and first reading. Referred to President's desk.

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MEMORANDUM

Attorney/Client Privilege

February 7, 2019

TO: John Carr, Ed Finklea, J.L. Wilson, Justen Rainey
AWEC Oregon Members

FROM: Tyler Pepple

RE: Analysis of HB 2020 – Oregon Cap and Trade Legislation

I. INTRODUCTION

This memorandum provides an analysis of the major provisions of the recently released House Bill 2020 that would create a cap and trade program in Oregon beginning in 2021. The legislation would establish an economy-wide cap on carbon emissions, overseen by a newly created Carbon Policy Office. The cap would be designed to achieve reductions in carbon emissions to 45% below 1990 emissions levels by 2035 and 80% below 1990 emissions levels by 2050.

From AWEC's perspective, the members who stand to be most impacted by this legislation are members with facilities that: (1) purchase their electricity from electricity service suppliers ("ESS") pursuant to a direct access program; (2) have significant on-site emissions, particularly through natural gas purchases, but do not meet the criteria for being an "emissions intensive trade exposed" ("EITE") facility; and (3) members that *do* meet the criteria for being an EITE facility but are determined in a later rulemaking process to have less efficient operations than the sector average.

HB 2020 also lacks clarity in certain areas that may impact estimates of costs to AWEC members. For instance, while market purchases of electricity from unspecified sources are covered under the emissions cap created by the bill, the bill is silent on how a carbon intensity will be determined for such purchases. Additionally, the bill lacks clarity and specificity over how biomass cogeneration facilities are treated under a cap and trade program,

both with respect to the direct emissions from the facility, if located in-state, and whether emissions will be attributed to the electrical output from the facility, if located out-of-state.

II. ANALYSIS

A. General Framework of the Cap and Trade Program – Sections 9 and 19

Section 9 of HB 2020 establishes the general parameters for how the cap and trade program would work and who would be covered. This section requires the Carbon Policy Office to identify a baseline level of emissions by taking the average emissions over the three years prior to 2021 that are attributable to covered entities “for which greenhouse gas emissions information is available and verified by the” Carbon Policy Office.

After identifying the baseline emissions level, the Carbon Policy Office is then to adopt an allowance budget equal to the baseline (one allowance is equal to one metric ton of carbon dioxide equivalent) for 2021. The number of allowances would then decrease by a constant amount through 2035 to achieve the initial target of reducing emissions by 45% below 1990 levels. Beginning in 2036, the allowance amounts would again decrease by a constant amount until 2050 to achieve a 90% reduction in carbon emissions below 1990 levels.

Each entity identified as a “covered entity” in the legislation is required to acquire a “compliance instrument” for each metric ton of carbon emissions regulated under the cap and trade program. A “compliance instrument” can either be an allowance or an “offset credit.” Both instruments are equivalent to one metric ton of carbon emissions. An allowance can either be purchased at the annual allowance auction established in the legislation or is directly allocated to certain covered entities, described in more detail below. An offset credit is obtained by undertaking a project not otherwise required by law that reduces or removes carbon emissions. An offset project can be undertaken anywhere in the United States or another jurisdiction that links its cap and trade program with Oregon, but the number of offset credits a covered entity can use for compliance is strictly limited. Only 8% of a compliance obligation can be met with offset credits, and only 4% of this obligation can be met with credits from projects that do not provide “direct environmental benefits” to Oregon.^{1/} As a consequence, the vast majority of any entity’s compliance obligation must be met by surrendering allowances.

B. Covered Entities – Section 9

The following entities are covered under the cap and trade program:

^{1/} “Direct Environmental Benefits” is defined as: “(a) A reduction in or avoidance of emissions of any air contaminant in this state other than a greenhouse gas; (b) A reduction in or avoidance of pollution of any of the waters of this state ...; or (c) An improvement in the health of natural and working lands in this state.” “Natural and working lands” is also defined, and appears to mean nearly anything other than developed land (but including land developed for agricultural purposes).

- (1) Facilities holding an Oregon air contamination permit that emit more than 25,000 metric tons of carbon dioxide equivalent. For reference, we understand this threshold to be equivalent to burning 4,500,000 therms of natural gas;
- (2) All fossil fuel-fired electric generation facilities holding an Oregon air contamination permit, regardless of whether they emit more than 25,000 metric tons of carbon dioxide equivalent;
- (3) All “electric system managers,” meaning any entity that performs electricity scheduling services, with respect to the electricity generated out-of-state that they schedule for delivery into Oregon. This includes PGE, PacifiCorp, BPA, PNGC, any ESS, and any consumer-owned utility that does its own scheduling, like EWEB;
- (4) All natural gas marketers with respect to emissions from natural gas they sell in Oregon;
- (5) All natural gas utilities (i.e., Northwest Natural, Avista, and Cascade) with respect to the emissions from natural gas they sell in Oregon; and
- (6) Any fuel producer or importer with respect to fuel that is sold or distributed in Oregon.

C. Exemptions – Sections 10 and 11

Any entity that is not a “covered entity” is exempt from compliance with the cap and trade law. As discussed below, however, that does not mean that exempt entities will be fully insulated from the costs of the program, as they may be exposed to higher electricity and natural gas prices.

The bill also expressly exempts other entities that might otherwise be covered. This includes the portion of emissions attributable to PacifiCorp’s coal and gas plants that are paid for by its other states. It also includes emissions attributable to electricity scheduled for a consumer-owned utility if the three-year average of emissions is below 25,000 metric tons. Finally, emissions associated the use of “fluorinated greenhouse gases generated during semiconductor and related device manufacturing” are temporarily exempted until 2026.

One category of emissions sources for which additional clarity appears necessary is biomass cogeneration facilities. Any cogeneration facility that emits more than 25,000 metric tons of greenhouse gases is likely covered under the law, and whether the owner of that facility would face increased costs associated with this facility depends on their EITE status (discussed below). A cogeneration facility that emits fewer than 25,000 metric tons would need to have a permit that lists its North American Industry Classification System code as “fossil fuel electric power generation” in order to be covered under the program. Meanwhile, the bill also states that, for electricity scheduled by an electric system manager “that is generated from a renewable

energy resource and acquired without acquiring the renewable energy certificate associated with the electricity shall be considered to have the emissions attributes of the underlying renewable energy resource.” It appears that the intention here is to specify that any out-of-state resource that qualifies for Oregon’s renewable portfolio standard (including biomass) would not be deemed to have an emissions profile attached to the electricity it generated and delivered into Oregon for purposes of cap and trade if, and only if, the entity purchasing and delivering the electric output is also purchasing the renewable energy certificate (“REC”) associated with that electricity. That, however, is not clear. “Renewable energy resource” is not defined, nor does the bill specify that the purchase of electricity from such a resource is deemed emission-free if it is bundled with a REC. Assuming this is the intention, however, this interpretation would appear to assign emissions to the entity purchasing the electrical output from an out-of-state cogeneration facility if that entity does not also purchase the RECs associated with it.

D. Allocation of Allowances – Sections 14-18

Certain covered entities would temporarily receive free allowances to meet their compliance obligations.

1. Bundled service customers of PGE and PacifiCorp appear to be largely insulated from cost increases from cap and trade related to their electricity purchases at least through 2030.

Electric companies, meaning only PGE and PacifiCorp, would receive free allowances to meet 100% of their covered emissions associated with meeting the load of their retail customers through 2030. The rationale for this treatment is that PGE and PacifiCorp are already meeting state carbon objectives through requirements in the 2016 “coal-to-clean” law, SB 1547, which requires them to fully depreciate their coal plants in Oregon rates by 2030 and meet a 50% renewable portfolio standard (“RPS”) by 2040.

The number of allowances PGE and PacifiCorp would receive would be based on their forecasted emissions in their integrated resource plans (“IRPs”), meaning that the utilities could ultimately receive greater or fewer allowances than they ultimately need to offset compliance costs. It also means that the utilities may have an incentive to over-forecast the level of their emissions in their IRPs in order to obtain more allowances. After 2030, the number of allowances PGE and PacifiCorp receive declines at the same rate as the decline in overall available allowances.

2. Electricity Service Suppliers receive no free allowances.

Despite being subject to the same RPS requirements as PGE and PacifiCorp, and thus having a similar basis for receiving free allowances, ESSs are allocated no free allowances. ESSs will, therefore, need to purchase all of their allowances at auction, which is likely to increase costs for customers on direct access. Most direct access customers are on PGE’s long-term opt-out program, which is open only to facilities with loads of at least one average megawatt. Thus, many of Oregon’s largest companies are on direct access, including a number

of AWEC members. The disparate treatment of electric companies and ESSs appears unjustified given that both entities are subject to the same carbon reduction requirements outside of this cap and trade bill. It may also further insulate PGE and PacifiCorp from the competitive pressures of direct access – and the need to respond to those pressures through actions that benefit customers, like cost-control measures – by artificially increasing costs for direct access customers.

3. BPA customers are likely to be fully protected from cost impacts in the first year of the cap and trade program, but may become increasingly exposed thereafter.

While BPA operates carbon-free hydro resources, customers of utilities that purchase from BPA (other than those described above whose attributed emissions are less than 25,000 metric tons) nevertheless face potential cost increases under cap and trade based on the market purchases BPA makes. The level of cost exposure involved, however, is uncertain at this point because there is little clarity in the bill regarding the carbon content that will be applied to market purchases of unspecified power. While the bill specifies that such market purchases would be covered under the cap and trade program, the legislation does not appear to specify how the Carbon Policy Office is to establish a carbon content for such purchases.

Regardless of the resolution of this issue, however, BPA and other “electric system managers” that serve consumer-owned utilities will be allocated 100% of their allowances for the first year of the cap-and-trade program. That amount then declines annually at a constant rate to meet the state’s carbon reduction goals. It is also worth noting that, while the bill eventually requires BPA to purchase allowances to offset the carbon content of its market purchases, it appears to give BPA no credit for the carbon free power the agency sells into that same market. In other words, BPA may be (and likely will be) carbon neutral from a load/resource balance perspective, but the bill does not recognize this. The impact of the carbon-free power BPA sells into the market could be factored into the carbon content of unspecified market purchases, but without specificity on this issue, it is impossible to know at this time.

It is also worth mentioning that, while BPA may be subject to some costs under cap and trade associated with market purchases, the overall impact of cap and trade on BPA’s rates could be beneficial under certain circumstances. Historically, BPA has kept rates low by selling excess power into the market, thereby generating “secondary revenues.” These secondary revenues have declined substantially in recent years due to low market prices, which has driven rates up. If cap and trade increases market prices, this could have the effect of increasing BPA’s secondary revenues and allowing the agency to reduce its rates.

4. Natural gas marketers also receive no free allowances, while gas utilities only receive sufficient free allowances to offset rate impacts to their low-income customers.

Unless provided allowances as an EITE, discussed below, AWEC’s gas transportation and sales members are fully exposed to the costs of cap and trade because their marketer or utility will need to purchase allowances to meet 100% of the emissions associated

with the gas they sell to any customer that is not a covered entity.^{2/} The only free allowances available for natural gas are those necessary to offset cost impacts to the LDCs' low-income customers, and the legislation specifies that these utilities may only use these allowances to minimize impacts on low-income customers.

5. EITE facilities will receive temporary cost relief from cap and trade, but EITE categories are limited and the amount of cost relief will vary by facility.

EITE facilities will receive free allocation of 100% of their allowances for the first year of the cap and trade program, 2021. After that, the number of allowances will decline annually to achieve the economy-wide carbon reductions identified above. The number of facilities that qualify for EITE status is limited in two ways. First, the facility must emit more than 25,000 metric tons of greenhouse gases. Second, it must fall into one of the delineated North American Industry Classification System ("NAICS") categories. These are:

- (a) Cement Manufacturing, code 327310.
- (b) Other Crushed and Broken Stone Mining and Quarrying, code 212319.
- (c) Frozen Fruit, Juice and Vegetable Manufacturing, code 311411.
- (d) Frozen Specialty Food Manufacturing, code 311412.
- (e) Dried and Dehydrated Food Manufacturing, code 311423.
- (f) Iron and Steel Mills and Ferroalloy Manufacturing, code 331110.
- (g) Other Basic Inorganic Chemical Manufacturing, code 325180.
- (h) All other Plastic Product Manufacturing, code 326199.
- (i) Mineral Wool Manufacturing, code 327993.
- (j) Polystyrene Foam Product Manufacturing, code 326140.
- (k) Glass Container Manufacturing, code 327213.
- (l) Ethyl Alcohol Manufacturing, code 325193.
- (m) Reconstituted Wood Product Manufacturing, code 321219.
- (n) Gypsum Product Manufacturing, code 327420.
- (o) Pulp Mills, code 322110.
- (p) Paper (Except Newsprint) Mills, code 322121.
- (q) Paperboard Mills, code 322130.
- (r) Semiconductor and Related Device Manufacturing, code 334413.

Any facility that does not meet both criteria – the emissions threshold and NAICS category – will be fully exposed to the costs of cap and trade.

Further, in addition to the fact that allowances will continuously decline for EITEs, some EITEs will fare better than others, depending on the efficiency of their processes and the number of similar facilities in Oregon. To establish the number of allowances each EITE

^{2/}

Because covered entities are directly responsible for purchasing allowances associated with their emissions, they assume the costs of emissions associated with their gas consumption, so requiring the gas marketer or utility to also acquire allowances for these emissions would be double-counting.

facility receives, the Carbon Policy Office must first identify a “good-specific emissions calculation” for each good manufactured by an EITE facility in the state. This is performed by taking the three-year average of carbon emissions attributable to the manufacture of the good and dividing it by the three-year average of the output of the good.

If a good is manufactured by three or more facilities in the state, then this is calculation is done for the entire sector. Thus, in this instance, the calculation would sum the three-year averages for all of the EITE facilities that produce a particular good in the state. For example, if four facilities produced the same good, the calculation would be as follows:

Facility	3-Year Average Emissions	3-Year Average Output	Good-Specific Emissions Rate
Facility A	10 metric tons	100 widgets	0.1 MT/widget
Facility B	20 metric tons	150 widgets	0.13 MT/widget
Facility C	20 metric tons	200 widgets	0.1 MT/widget
Facility D	15 metric tons	100 widgets	0.15 MT/widget
Sector Total/Average	65 metric tons	550 widgets	0.12 MT/widget

Under this example, allowances would be distributed based on an emissions rate of 0.12 metric tons, meaning that Facility A and Facility C, would receive more allowances per good manufactured, and therefore fare better than Facility B and Facility D.

If, however, a good is only manufactured by one or two EITE facilities in the state, then the calculation described above is facility-specific rather than sector-specific. Under this scenario, the number of allowances a facility receives should more closely align with that facility’s specific production process.

The legislation also provides the Carbon Policy Office with authority and discretion to increase the number of allowances an EITE facility receives, either because a change in the manufacturing process results in increased carbon emissions or because of a change in the external competitive environment that increases leakage risk.^{3/} The office may also establish new EITE designations for entities that bring manufacturing to the state after cap and trade is implemented. By contrast, there is no way for an existing facility that does not meet the EITE requirements currently to later become designated as an EITE.

E. Allowance Auctions and Use of Proceeds – Sections 21, 22, 27-37, and 42-43

Section 21 of the bill provides rulemaking authority to the Carbon Policy Office to design and implement auctions of allowances. These auctions must be held at least annually. The rules must establish both a floor and a cap for allowance prices, but do not specify what the floor and cap must be. The bill does, however, require the Carbon Policy Office to consider prevailing carbon prices in other jurisdictions and what price would allow linkage with other

^{3/} To enable the Carbon Policy Office to adjust the number of allowances for an EITE facility under this process, the legislation requires that a to-be-determined number of allowances in each auction be placed into a special reserve account.

jurisdictions. This appears to send a pretty strong signal that at least the initial allowance floor and cap should mirror prices in California and the other Western Climate Initiative states.

The bill also establishes a variety of funds and methods for holding and using auction proceeds. Proceeds from allowances that are not directly allocated go into one of three funds: the Transportation Decarbonization Investments Account; the Common School Fund; and the Climate Investments Fund. Essentially, the first two funds exist in the bill to comply with constitutional restrictions on the use of revenues from taxes on motor vehicle fuels and school-related property transfers, and the bill only allocates auction revenue to these funds that is required. The remainder goes into the Climate Investments Fund.

For reasons that are unclear, the bill includes three different sections detailing how revenue in the Climate Investments Fund is to be used. This includes allocation to other funds that exist within the Climate Investments Fund. Ten percent of the revenue must be allocated to projects that benefit Indian tribes; an as-yet unspecified percentage is to be allocated to the Oregon Climate Action Program Operating Fund, which funds the Carbon Policy Office; and an also as-yet unspecified minimum dollar amount is to be allocated to the Just Transition Fund, which pays for job training and financial support for “workers dislocated or adversely affected by climate change or climate change policies.” The Carbon Policy Office then has broad discretion over how it uses the remainder of the revenue in the Climate Investments Fund. The bill offers suggestions, but only requires that the use of the revenues be consistent with the policies established in Section 7 of the bill. These policies are broadly phrased, but do include “assistance to … businesses … impacted by the transition in this state to an economic system that allows for the State of Oregon to achieve [its] greenhouse gas reduction goals.” This would seem to allow for at least the possibility that businesses impacted by this bill but ineligible for free allowances could still obtain assistance to offset increased costs.

The bill also specifies how revenue received by electric companies and natural gas utilities through the sale of freely allocated allowances is to be used. This includes funding activities that reduce greenhouse gas emissions or provide energy assistance to the electric or gas utility’s retail customers. As noted above, however, the natural gas customers eligible for energy assistance are limited to low-income customers. The bill also requires the electric and gas utilities to prioritize: “rate design based solutions”; bill assistance, weatherization, conservation, transportation electrification, and grid modernization; and low-income energy efficiency. It is unclear what “rate design based solutions” means. Ultimately, any approved use of allowance proceeds will be determined by the Public Utility Commission.

D. Repeal of Carbon Dioxide Emissions Standard – Section 54

One clear benefit from the cap and trade bill is the repeal of the carbon dioxide emissions standard. This is presumably done to avoid double-counting emissions through this standard and the requirement to purchase allowances. The carbon dioxide emissions standard applies to in-state fossil fuel-fired generation facilities and requires these facilities to meet an efficiency threshold or pay to emit greenhouse gases above this threshold. The threshold is deliberately designed to be unachievable, so every applicable facility must pay some emissions

penalty under this law. In 2017, PGE paid \$18 million to comply with the carbon dioxide emissions standard. If the cap and trade law is passed, however, PGE would no longer need to make this payment, and would receive free allowances to cover its emissions through 2030, resulting in a net savings for customers at least through this period.

III. CONCLUSION

HB 2020 is detailed and complex, but also raises significant uncertainty for AWEC members with regard to their potential cost obligations. The legislation delegates major decisions to the rulemaking authority of the newly created Carbon Policy Office, including establishment of a range of allowance auction prices, the carbon content of unspecified electricity purchases, and the calculation of baseline emissions. It also creates clear winners and losers in often arbitrary fashion. Bundled customers of PGE and PacifiCorp are largely protected for the first ten years of the program, while direct access customers are not. Significant consumers of natural gas are fully exposed to costs unless they fall into a specified EITE category. And EITE facilities are treated differently depending on how many similar facilities there are in the state. Given the uncertainties and disparate treatment of customers, and barring outright defeat of the legislation, there seem to be good arguments to propose amendments to the legislation to better protect the customers who are most impacted by it.

Please feel free to contact me if you have any questions or would like additional information on any aspects of the cap and trade legislation.



AWEC's 2018 Accomplishments

Confidential
Members Only
February 20, 2019

Executive Director's Overview

The year 2018 is unique in that this is the first annual accomplishments' memo provided to the membership under the Alliance of Western Energy Consumers name. This name change, accompanied by the merger of the Northwest Industrial Gas Users with the Industrial Customers of Northwest Utilities, itself marks one of the major successes for AWEC in 2018. The merger was accomplished smoothly and is already providing value to the members, including by providing each member with access to both gas and electric advocacy and information, regardless of whether they belonged to one or both organizations previously.

As AWEC evolves from IGNU and NWIGU, the energy landscape in the West continues to evolve as well. Cap and trade and carbon tax legislation were defeated in Oregon and Washington, respectively, as was a separate carbon tax initiative in Washington, but a continued push for carbon legislation in these states is certain. Meanwhile, efforts to better integrate western energy markets also continues. The California ISO is likely to expand its Energy Imbalance Market ("EIM") to a day-ahead market, and the Bonneville Power Administration ("BPA") continues to explore participation in the EIM. Full integration through a western independent system operator or regional transmission organization also remains a possibility.

Consistent with previous years, much of 2018 continued a run of historically low market prices, driven by abundant gas supplies and low-cost renewable energy, which continues to put financial pressure on BPA as 2028 and the expiration of the Regional Dialogue Contracts fast approaches. The fragility of this low-cost market environment was put into stark relief, however, by the rupture of the Enbridge pipeline. While a major reliability event was avoided, thanks in large part to AWEC members on interruptible tariffs, many members experienced significant financial hardship from skyrocketing market prices in October, November, and December. As the Enbridge event unfolded, AWEC provided the membership with real-time information and has continued to keep the members informed of progress in restoring the full capacity of the pipeline. While market prices appear to have stabilized at or near pre-rupture levels, the Enbridge outage reinforces the importance of dispatchable generation to reliably meet electric loads, and the need to maintain strong pipeline infrastructure to ensure sufficient and reliable gas deliveries.

As the energy landscape evolves, AWEC remains committed to its core principles of advocating for low rates and reliable service to its members. Again, AWEC achieved significant successes in 2018 on these issues, including:

- The second year in a row of rate decreases for Portland General Electric's ("PGE") largest customers, including those on direct access;
- Elimination of a proposed rate increase for PacifiCorp's Oregon customers;
- An \$18 million refund for PacifiCorp's Washington customers;
- Rejection of Avista Corp.'s ("Avista") proposal for a multi-year rate plan;
- Reversal of the Washington Utilities and Transportation Commission's ("WUTC") order in Avista's 2015 rate case granting it additional revenue through an "attrition adjustment";

- Reduction of BPA's Spill Surcharge by \$7.2 million.
- Reductions in several natural gas rate cases.
- Defeat of a natural gas tracker.
- Increasing storage and optimization activities at Northwest Natural Gas ("NW Natural").

Electric Accomplishments

Portland General Electric

1. 2018 General Rate Case (UE 335)

AWEC achieved rate decreases for a second year in a row for customers on PGE rate Schedules 89 and 90, as well as direct access Schedules 485 and 489. Accounting for updates to power costs and various supplemental schedules, and coupled with a separate settlement with PGE to pass savings it collected in 2018 from the Federal Tax Cuts and Jobs Act, customers on Schedules 89 and 90 experienced an aggregate rate decrease of approximately 3.5%. Direct access customers on Schedule 489-P and 485-P saw a 9.1% and 8.6% decrease, respectively, to their delivery rates.

AWEC played a crucial role in achieving this result, filing testimony that identified adjustments to power costs and revenue requirement that PGE agreed to accept in settling the rate case. These included adjustments to employment levels and wages, pension expense, deferred income taxes, and the production tax credit rate. Additionally, AWEC was able to get other parties to agree to equalize the rate impact between Schedules 85, 89, and 90, which further reduced rates to Schedules 89 and 90.

PacifiCorp

1. Oregon 2019 Transition Adjustment Mechanism ("TAM") (UE 339)

PacifiCorp's TAM adjusts the utility's power costs for the upcoming year. PacifiCorp initially forecast a 1.3% increase to power costs. AWEC filed testimony identifying a number of adjustments to the utility's forecast, including the assumed capacity factors for its wind resources and the production tax credit rate. In settlement, PacifiCorp accepted reductions to its forecast based on both issues, as well as others, which effectively eliminated the rate increase. Additionally, through final updates to the power cost forecast in November, customers on Schedule 48 realized a very slight 0.1% rate decrease effective January 1, 2019.

2. Washington 2016 and 2017 Power Cost Adjustment Mechanisms ("PCAM") (UE-170717, UE-180494)

PacifiCorp's PCAM acts as a true-up mechanism for its power costs. Any positive or negative variance from forecasted power costs is tracked and then first flown through dead bands – in which the utility absorbs higher-than-expected power costs and retains the savings from lower-than-expected power costs up to a certain level – and sharing bands, in which costs or savings greater than the dead bands are shared with customers. Any remaining costs or savings are then placed in a balancing account. If the balancing account accumulates either a credit or cost to customers of over \$17 million, it triggers liquidation of the account.

In PacifiCorp's 2016 PCAM, parties challenged the utility's PCAM calculation on the basis that it included the costs of a longwall mining system that PacifiCorp imprudently allowed to become stuck in the Bridger Coal Company mine. Through settlement, PacifiCorp agreed to remove these costs, resulting in a credit to customers of approximately \$4.7 million in the balancing account. Then, in filing the 2017 PCAM, PacifiCorp identified an overcollection and further credit to customers of approximately \$13.2 million. Therefore, coupled with the 2016 PCAM settlement, the total credit to customers was \$17.9 million, triggering a refund.

Despite acknowledging the need to provide a refund to customers, PacifiCorp proposed to pass it back over a two-year period beginning January 1, 2019, in violation of the settlement agreement that established the PCAM, which requires an immediate refund over a 12-month period. PacifiCorp's rationale for departing from the requirements of the settlement agreement was that its proposal would promote rate stability. At an open meeting to address the issue, an AWEC member opposed PacifiCorp's proposal and advocated for adherence to the stipulation's requirements. The WUTC agreed and required PacifiCorp to pass the credit back over a 12-month period beginning November 1, 2018. The credit results in a rate decrease of approximately 5% over this 12-month period.

Avista Corp.

1. 2017 General Rate Case (UE-170485/UG-170486)

On April 26, 2018, the WUTC issued its final order in Avista's 2017 general rate case severely limiting the rate increase the utility requested. Specifically, the WUTC granted Avista a one-year increase of \$10.8 million, or 2.2%. This compares with the utility's request for a three-year rate plan with a first-year increase of \$61.4 million (12.5%), a \$14 million increase in year two (2.4%), and a \$14.4 million increase in year three (2.5%), for a total three-year increase of nearly \$90 million. A particularly important victory in this case was the Commission's rejection of Avista's requested multi-year rate plan, which the WUTC's own staff also supported.

Also potentially beneficial for customers was that the entire rate increase was comprised of increases to Avista's power costs. While frustrating from the perspective that Avista has been systematically over-collecting its power costs in recent years, the provided increase makes it highly likely that Avista will trigger the credit threshold in its energy recovery mechanism ("ERM") in 2019. Avista's ERM includes a balancing account in which over- and under-collections of power costs are held after they are flown through dead bands and sharing bands. If the balancing account reaches a certain level on either the positive or negative side, a credit or surcharge to customers is triggered accordingly. Thus, if, as appears likely, Avista's ERM balancing account exceeds the threshold in customers' favor in 2019, all of the money in the balancing account will need to be returned.

2. Court of Appeals Reversal of 2015 General Rate Case

On August 7, 2018, the Washington Court of Appeals issued its ruling in Public Counsel's challenge to the WUTC's final order in Avista's 2015 general rate case. AWEC filed an amicus brief in Public Counsel's favor. The WUTC's final order had granted Avista an "attrition adjustment" in which it granted the utility a rate increase based in part on forecasts of the plant the utility would have in service in the future as a means of mitigating Avista's alleged chronic under-recovery of costs (Avista has, in fact, earned its authorized return in recent years).

In its ruling, the Court of Appeals found that the WUTC's authorized attrition adjustment violated the state's "used and useful" statute with respect to capital investments because it set rates based on plant that had not yet been placed into service. The Court found that "[r]egardless of their accuracy, use of projections in determining rate base ignores the requirement that the WUTC only consider property 'used and useful for service' in Washington."

While AWEC did not itself challenge the WUTC's order, its litigation strategy in the 2015 rate case became crucial to the Court's decision. Public Counsel had not challenged Avista's requested attrition adjustment at the WUTC on the grounds that it violated the "used and useful" statute. As a consequence, the WUTC and Avista argued that Public Counsel's challenge of the order was barred by the Administrative Procedure Act, which requires that an issue be raised at the administrative agency in order for it to be raised on judicial review. The Court found that "[i]f PCU had been the only party raising this issue, it would have waived its 'used and useful'

argument.” The Court, however, noted AWEC’s arguments on this precise issue in the rate case and found that “[b]ecause [AWEC] placed this issue before the WUTC, we consider PCU’s statutory ‘used and useful’ argument.”

As a consequence of the Court’s ruling, we expect the WUTC to undertake remand proceedings to identify the amount necessary to refund to customers.

Bonneville Power Administration

1. Integrated Program Review, BP-20 Rate Case, and TC-20 Terms and Conditions Proceeding

During 2018, AWEC actively participated in BPA’s pre-rate case procedures, and in cooperation with its partners in public power, argued that BPA should make significant cost concessions that would benefit customers during the BP-20 rate period. During these discussions, including those in the BPA integrated program review and strategic plan, BPA committed to hold program costs at or below inflation through 2028 and made significant cuts to its fish and wildlife budget. These actions were consistent with recommendations that AWEC, formerly as ICNU, has been making for some time. As a result, the BPA initial proposal for the BP-20 rate case would increase rates for the BP-20 rate period by 2.9%, down from the 5% power rate increase that was initially forecast. Due to some favorable rate design proposals, which are based on issues that ICNU litigated and won in the BP-16 rate proceeding, some AWEC members may actually see a rate decrease during the BP-20 period. On a forward-looking basis, AWEC will be working hard to preserve these gains in the rate proceeding.

Likewise, as a result of pre-rate case negotiations, BPA’s initially contemplated 10% transmission rate increase has been significantly reduced. AWEC and the other parties to the TC-20 Term and Conditions Proceeding were able to negotiate, as part of the overall proposed TC-20 Settlement, a BP-20 Partial Rates Settlement for transmission rates. The joint settlement of these issues provides for a transmission rate increase for the BP-20 rate period of approximately 3.6% overall. While one party has objected to certain provisions of the BP-20 Partial Rates Settlement, BPA has stated that it plans to move forward with the settlement, which protects members from a much more severe 10% rate hike that BPA had planned.

2. Spill Surcharge Adjustment

AWEC’s advocacy has also paid dividends for members, when, during 2018, BPA finalized the 2018 Spill Surcharge, which was designed to recover costs attributable to foregone generation caused by increased spill as a result of National Wildlife Federation v. National Marine Fisheries Service. The Spill Surcharge functioned as a true-up to customer bills, but BPA’s initial proposal in BP-18 was imprecise and created the possibility that the agency might collect more than actual costs. In response to arguments made by AWEC, BPA eventually adopted a more appropriate methodology for calculating the Spill Surcharge. When applied this year, AWEC’s methodology saved customers \$7.2 million, or \$0.53/MWh over the four-month spring spill season.

Portland General Electric

1. Portland General Electric 2017 General Rate Case (UE 319)

On December 18, 2017, the Oregon Public Utilities Commission (“OPUC”) issued an order approving the last of a series of stipulations among the parties to the proceeding regarding PGE’s application for a general rate revision. Overall, the outcome of this proceeding was extraordinarily favorable to ICNU’s members.

ICNU participated in all aspects of this proceeding, including the negotiation of the revenue requirement and rate design stipulation that reduced PGE’s initial requested \$99.9 million rate increase to \$15.9 million. The final revenue requirement resulted in customers taking service on Schedules 89 and 90 with a 2.6% and 3.6% rate decrease, respectively. ICNU also limited increases to PGE’s direct access customers by preventing a PGE proposal to shift costs to these customers from residential customers.

ICNU also negotiated a favorable long-term resolution of the Citizens' Utility Board's ("CUB") repeated attempts to shift energy efficiency costs to large customers. In exchange for ICNU's agreement that customers on Schedules 89, 90, and their direct access equivalents would pay approximately \$770,000 to residential and small commercial customers, CUB agreed not to raise this issue again and agreed to increase an informal cap on Energy Trust funding that was preventing it from fully funding large customer projects. The OPUC will open an investigatory docket on energy efficiency funding no earlier than the second half of 2018. Any outcomes from that investigation cannot be implemented until the next PGE rate case following completion of the investigation, which as a practical matter, delays this implementation until at least 2021.

2. PGE 2017 Integrated Resource Plan ("IRP") (LC 66)

ICNU's advocacy in PGE's 2017 IRP helped avoid needless and expensive investments in new generation assets. PGE's IRP sought up to 550 MW of new capacity resources and over 500 MW of new renewable resources. The IRP appeared to be predetermined to select a new combined-cycle gas-fired plant and a Gorge wind resource. ICNU disputed the need for both.

In response to pressure from ICNU and other organizations, PGE tested the market for existing capacity and found a number of attractive proposals. It is in the process of negotiating with these capacity owners. This will avoid the need for PGE to build a new resource, committing hundreds of millions of customer dollars and increasing their risk associated with this long-lived fossil-fuel based asset.

The OPUC also agreed with ICNU in rejecting PGE's renewable resource request, at least in part. The OPUC echoed ICNU's concerns about the prudence of acquiring so much renewable generation when PGE's forecast showed no need for this generation for more than a decade. However, the Commission was persuaded that expiring production tax credits could at least potentially provide benefits to customers and invited PGE to return with a revised renewable action plan. That revised plan requested approximately 300 MW of new renewable resources, which the Commission acknowledged. However, the OPUC's acknowledgement order continues to place risk of cost recovery on PGE, and the new federal tax law could substantially reduce or even eliminate the tax benefits associated with a near-term resource. Whether PGE continues to pursue this new renewable resource remains to be seen, but even if it does, the cost to customers will only be a fraction of what it was originally proposing.

3. Electric Vehicle ("EV") Settlement (UM 1811)

On June 27, 2017, ICNU and other interested parties ("Stipulating Parties") signed a settlement regarding PGE's proposal to develop Transportation Electrification ("TE") Programs. This settlement limits the cost impacts for ICNU members and provides financial incentives for businesses installing workplace charging stations and investing in electric vehicles. PGE did not propose this program as part of its filing and agreed to it only because ICNU pushed for it. PGE will develop a pilot program to meet this requirement, and AWEC will inform its members when it is available.

Puget Sound Energy

1. Puget Sound Energy 2017 General Rate Case (consolidated Dockets UE-170033 and UG-170034)

On January 13, 2017, PSE filed its first general rate case since 2012, asking for approval of an overall 4.1% rate increase. The WUTC issued its final order on December 5, 2017, which approved a partial stipulation and resolved several contested issues in a manner generally consistent with ICNU's proposals.

First, ICNU was able to achieve a very limited rate increase of less than 1% for Schedules 46 and 49 rates, which is significantly lower than PSE's originally requested 4.6% increase for these customers. This lower than average increase for Schedules 46 and 49 customers will ultimately help move industrial rates closer to parity with

other rate schedules. The WUTC also approved ICNU's proposal to reallocate \$250,000 of the costs of PSE's recently completed Ardmore Substation from applicable Schedule 40 customers to other rate classes. Schedule 40 customers overall saw the largest reduction to their proposed rate increase over the course of the case, from an initial 12.1% rate increase to an approved increase of approximately 2%. In addition, the WUTC's final order rejected Public Counsel's proposal to increase Schedule 449 rates by 150% of the average.

ICNU also secured an exemption for Schedules 46 and 49 customers from PSE's decoupling mechanism. This was a surprising but welcome result, as the WUTC has previously shown little willingness to modify PSE's decoupling mechanism.

The WUTC also rejected PSE's proposed electric cost recovery mechanism ("ERCM"), which would have added \$10.5 million to rates in the first year of the rate period to incentivize distribution reliability investments. In line with other parties in the proceeding, ICNU argued that riders like PSE's proposed ECRM for planned distribution system investments are only appropriate for costs that are volatile and outside of the utility's control.

Finally, the WUTC approved a stipulation that included a plan for closing Colstrip units 1 and 2 in a manner that will mitigate the risk of stranded costs to customers. This is accomplished primarily by offsetting the unrecovered investment in these units, as well as decommissioning and remediation costs, with federal treasury grants and production tax credits that PSE has deferred to future years.

PacifiCorp

1. PacifiCorp Oregon 2018 Transition Adjustment Mechanism ("TAM") (OPUC Docket UE 323)

PacifiCorp's TAM establishes its net power costs for bundled service customers for the following year and the transition adjustment charges customers opting for direct access will pay. Recently, the OPUC has rubber stamped the utility's TAM filing. This year, however, the OPUC adopted some beneficial modifications. First, it adopted an adjustment that should reduce the utility's costs associated with differences between its day-ahead and real-time dispatch decisions by limiting historical data to after PacifiCorp's entrance into the energy imbalance market. Additionally, it adopted a three-year rolling forecast of delays in qualifying facility ("QF") commercial operation dates ("COD"), rather than PacifiCorp's method of simply assuming that all QFs that have contracts will be operational by the forecasted COD. This reduced power costs associated with these QFs.

The OPUC also required PacifiCorp to change how it calculates the "customer opt-out" charge for its direct access program. This charge requires direct access customers to pay ten years' worth of fixed generation costs in a five-year period, making direct access an uneconomic option for most customers. The OPUC required PacifiCorp to account for depreciation of its generation facilities over this ten-year period. While this is a welcome change, AWEC remains concerned that the customer opt-out charge will continue to make direct access economically prohibitive and AWEC will look for opportunities to eliminate this charge in the future. On this issue, the OPUC's order was also positive in that it noted that the opt-out charge was "summarily established" and, therefore, is in need of additional review.

2. EV Settlement (UM 1810)

On June 27, 2017, ICNU and a number of other parties signed a settlement regarding PacifiCorp's proposal to develop Transportation Electrification ("TE") Programs. The terms of this settlement will limit the cost impacts of PacifiCorp's TE Programs on ICNU members and provide potential benefits to these members through incentives. Specifically, PacifiCorp agreed to fund up to \$1.685 million in programs for non-residential customers to develop electric transportation infrastructure projects. These projects will be selected through a competitive grant process. AWEC will keep its members informed of this process.

Avista Corporation

1. Avista Power Cost Update

ICNU enjoyed a major success when the WUTC denied the Company's power cost rate adjustment ("PCRA"), which would have increased overall rates by 2.92% on average, and considerably more for large industrial customers. ICNU requested that the WUTC either roll the PCRA into Avista's GRC, which it filed the same day, or reject it outright. Had the PCRA been approved, that 2.92% increase would have applied during the GRC's proceeding, and *also* during future rate periods – that is, the PCRA would have been cumulative with any rate changes that may be approved in Avista's GRC (which will conclude sometime this winter). Thus, this early PCRA rejection effectively shaved nearly three percent, or \$15 million, off the Company's 2017 GRC request, even before that case was fully in progress.

2. Advanced Metering Infrastructure Proposal

The WUTC approved the Company's advanced metering infrastructure ("AMI") proposal, which contained multiple provisions designed specifically to protect ICNU members' interests – all of which were inserted through sustained negotiations between AWEC, WUTC Staff, and the Company. Most importantly, the Company's proposal requires a class-by-class cost/benefit analysis, which should provide industrial customers with a good basis to argue — probably in the next GRC, when AMI prudence and cost recovery will likely be determined — that large customers should be responsible for minimal cost recovery on the estimated \$165.4 million in AMI capital investment (or, well over \$200 million, if adding expenses).

2018 Oregon Legislative Accomplishments

The year 2018 was a successful year for AWEC in the Oregon Legislature. The daunting task of crafting and passing a cap-and-trade bill in 35 days proved to be too much for Democrats and left little time or appetite for other harmful energy policy in 2018.

AWEC and coalition partners defeated all carbon pricing bills in 2018. The Oregon House and Senate introduced cap-and-trade bills (HB 4001 and SB 1507) that were discussed jointly throughout the legislative session. AWEC strongly opposed both bills and convened Oregonians for Balanced Climate Policy, a coalition to oppose the measures. The coalition made headway by driving grassroots opposition and coordinating vote counts during session. Due to the quick timeframe of the short session and opposition from industry, cap-and-trade stalled and did not advance.

AWEC's work on cap-and-trade continued into the interim as the newly-formed Carbon Policy Office and Energy Advisory Work Group studied policy options ahead of the 2019 legislative session. In November, Governor Brown released her 2019-21 recommended budget, which includes plans for a new agency – the Oregon Climate Authority. The new agency would consolidate the work of Oregon Department of Energy (ODOE), the Carbon Policy Office and DEQ's greenhouse gas reporting, in order to streamline the state's climate strategies. Cap-and-trade advocates will face fewer hurdles in 2019, with larger Democrat majorities and much more time to work the concept.

Among other legislative issues for AWEC members, the Senate worked on legislation to reorganize ODOE through Senate Bill 1519. The bill was the product of a deal between Senator Olsen and Senator Beyer, which created an oversight commission for the agency while capping the Energy Supplier Assessment to a fixed rate of 0.15%. The legislation did not advance out of Joint Ways and Means before sine die and no new changes were made to the Oregon Department of Energy in 2018.

The legislature also considered changes to the existing solar project tax exemption statute this session. The legislation would have created additional complexity for solar project developers seeking a property tax

exemption. Throughout discussion around this bill, changes to solar incentives were stripped out and the bill failed to advance. No changes were made to solar incentives currently in statute.

2018 Washington Legislative Accomplishments

As IGNU and NWIGU, we were at the table throughout the legislative session successfully gaining some concessions to a carbon tax proposed by Senate Democrats and supported by the Governor's Office. When 2SSB 6203 lacked the votes to pass the full Senate and was declared dead in the closing days of the session, the focus turned to a 100% clean energy proposal initiated in the House. When SHB 2995 faltered, again lacking the votes to bring it to the floor, the environmental push shifted to an alternative form of regulation (AFOR) introduced by Puget Sound Energy. Again, we had gained some concessions but continued to share our concerns. ESHB 2839 passed the House, but died without a vote in the Senate.

It was a trifecta win for AWEC and all energy consumers worried about cost and reliability, but we'll most likely face these same policy measures in 2019 along with other perennial proposals — including electrification of transportation (ESSB 6187), distributive generation (ESHB 1233) and net metering (ESSB 6081) — that failed to gain passage in 2018.

Following the 60-day legislative session, AWEC turned our attention to the latest effort to price carbon. Working with AWB, where our lobbyist Tim Boyd continues to serve as co-chair of the Energy & Climate Committee, we were part of a coalition unsuccessfully challenging the ballot title and measure summary assigned I-1631 by the Office of the Attorney General. Undaunted, we also lent our name to support of the No on 1631 campaign, which prevailed with 56.56% of the vote statewide.

Natural Gas Accomplishments

As noted above, the year 2018 included the merger of IGNU and NWIGU, and as a combined group, the organization was able to secure several favorable outcomes for its electric and gas members. Highlights of AWEC's major achievements for 2018 include:

- Significant rate reductions for Gas Transmission Northwest ("GTN") customers due to a settlement that returns to customers the benefits of the Tax Cuts and Jobs Act.
- Reductions to Avista Corporation's ("Avista") gas rates in Washington and stopping Avista's rate plan which would have resulted in automatic rate increases over three years without justification.
- A \$4.5 million rate decrease for Cascade Natural Gas Corporation ("Cascade") customers in Washington, which will be returned to customers on an equal percent of margin basis.
- Reductions in Cascade's general rate case request in Oregon, preventing Cascade from implementing a gas safety tracker and stopping Cascade from eliminating interruptible transmission service.
- Significant reductions to Northwest Natural Gas Company's ("NW Natural") requested rate increase in Oregon, including negotiation of favorable rate spread for AWEC members.
- Increasing the sharing percentages with respect to NW Natural's Mist storage and optimization activities so that the revenue from those activities is shared in a manner more favorable to customers and requiring NW Natural to report optimization revenues as part of its results of operations ("ROO").
- Preventing utilities from deferring any expenses relating to capital investments to eliminate

regulatory lag.

- Defeating Intermountain Gas Company's ("Intermountain") proposed safety tracker because such trackers are single issue ratemaking, which have all upside for the company, without looking at any factors which would offset the need for a rate increase to pay for the program.
- Ensuring that all of the benefits from the Tax Cuts and Jobs Act flow through to Intermountain's customers.

GAS TRANSMISSION NORTHWEST

1. Gas Transmission Northwest

The Federal Energy Regulatory Commission ("FERC") ordered all interstate pipelines to report the impacts of the Tax Cuts and Jobs Act on rates. In response, GTN convened a settlement conference to address whether the benefits of the Tax Cuts and Jobs Act would be returned to customers. AWEC took a lead role with GTN and other shippers to negotiate a settlement that returns the benefits of the tax reform to shippers.

In the settlement that was approved by FERC on November 30, 2018, GTN agreed to (i) a refund of \$10 million to its recourse rate customers in 2018, (ii) a reduction to its existing maximum system reservation rates by 10 percent effective January 1, 2019, and (iii) an additional 6.6 percent reduction effective January 1, 2020 through December 31, 2021. GTN is required to have new rates in effect on January 1, 2022. These reductions replace the 8.3 percent rate reduction in GTN's reservation rates in 2020 agreed to as part of the 2015 Settlement. Further, GTN and its customers agreed to a moratorium on further rate changes prior to January 1, 2022, providing a greater degree of regulatory certainty for GTN and its customers going forward.

AVISTA CORPORATION

1. Avista Washington Rate Case (UG-170486)

On April 26, 2018, the Washington Commission issued its Final Order in Avista's general rate case filed on May 26, 2017. The outcome of the Final Order for Avista's natural gas operations was a decrease in revenue of approximately \$2.1 million, or 2.41 percent. This is a very favorable outcome for AWEC members.

Some of the issues resolved in the Final Order were agreed to by the parties and presented to the Washington Commission as part of a multi-party stipulation. Specifically, AWEC (at the time acting as NWIGU with respect to gas issues) was able to negotiate through the stipulation that any increase (or decrease) approved by the Washington Commission would be spread on an equal percent of margin basis, which is a favorable spread for transportation gas customers.

NWIGU was also able to negotiate for the creation of two new natural gas transportation schedules, Schedules 116 and 126. These new schedules reduce the threshold required for a customer to be eligible for gas transportation service.

The parties fully litigated the other issues in this proceeding, including Avista's proposed rate plan, which NWIGU / ICNU opposed. In its continued effort to address claims of lagging revenue, Avista, with the support of Staff, sought a three-year rate plan whereby rates would increase once upon approval of the filing, then by set annual increases in the subsequent two years.

Based on the joint testimony of NWIGU/ICNU and Public Counsel, the Washington Commission rejected the entirety of Avista's rate plan proposal, noting that an important consideration of a multi-year rate plan is that there must be "sufficient comfort that the anticipated relationship between costs and revenues is predictable and reasonably accounts for utility operations over the course of the rate plan's anticipated timeframe." The joint testimony sponsored by NWIGU and ICNU cast severe doubt on the predictability of

Avista's costs and revenues.

The Final Order, including the rejection of the rate plan, is a solid outcome for AWEC members. The filed rate case would have increased revenue by nearly \$8.3 million for the Company's gas operations in just the first year (a 9.5 percent increase), with multi-million-dollar increases of \$4.2 million and \$4.4 million in subsequent years. Instead, customers will be seeing a rate decrease until the next general rate case is filed.

CASCADE NATURAL GAS CORPORATION

1. Cascade Washington Rate Case (UG-170929)

On August 31, 2017, Cascade filed for a general rate increase asking for an additional \$5,884,984 in revenue for natural gas service in Washington. Based on the company's cost of service study, transportation customers would have received a 6.7 percent increase. Cascade proposed changes only to transportation, interruptible, and residential rates, claiming the other rate schedules are at or near cost of service.

AWEC's predecessor, NWIGU, was able to negotiate a partial settlement agreement that was consistent with NWIGU's filed testimony. In that settlement agreement, the parties agreed to increase Cascade's annual revenues by \$750,000 before considering some of the impacts from the Tax Cuts and Jobs Act, down from the company's original request of \$5.9 million. After taking into account some of the impacts of the Tax Cuts and Jobs Act, the parties agreed that the result would be a revenue requirement decrease of \$2,919,365, or a decrease of 1.4 percent overall. Additionally, the parties agreed that the revenue requirement decrease will be spread on an equal percentage of margin basis.

The parties were unable to agree on the calculation and treatment of the Tax Cuts and Jobs Act impact on rates with respect to taxes collected at 35 percent during the period beginning January 1, 2018 and ending July 31, 2018. After an evidentiary hearing and oral argument, however, the Washington Commission sided with AWEC, Staff and Public Counsel and ordered Cascade to return an additional \$1.6 million to ratepayers for the contested Tax Cuts and Jobs Act adjustment, for a total rate decrease of approximately \$4.5 million. This is a solid result for AWEC members that take service from Cascade.

2. Cascade Oregon Rate Case (UG 347).

On May 31, 2018, Cascade filed for authority to increase its rates by \$2,310,808 or 3.53 percent. AWEC identified several areas of concern with Cascade's filing including its rate spread and rate design proposal because Cascade decided, without notice, to change Schedule 163 from interruptible to firm service. As a result, Schedule 163 would receive a 19.87 percent increase for general transportation service because those customers would be subject to capacity charges associated with firm service.

Cascade also proposed a safety tracker for immediate recovery of plant investments, similar to Intermountain's failed proposal in Idaho. In its testimony, AWEC noted that programs like this are single issue ratemaking, which have all upside for the company, without looking at any factors which would offset the need for a rate increase to pay for the program.

AWEC was able to settle this case close to its litigation position, except for one adjustment related to the Tax Cuts and Jobs Act. The settlement included a revenue requirement increase of \$1,175,000 (before considering all the impacts of the Tax Cuts and Jobs Act). Cascade agreed to withdraw its request to change Schedule 163 from interruptible to firm in this case. Cascade also agreed to remove the safety tracker proposal from the rate case and file it separately with the Commission. Finally, the parties will address the Interim Period tax savings from the Tax Cuts and Jobs Act in the Commission's ongoing tax dockets. Securing interruptible service options for AWEC members was a major victory in this proceeding.

NORTHWEST NATURAL GAS COMPANY

1. NW Natural Rate Case (UG 344)

On December 29, 2017, NW Natural filed to increase its annual Oregon jurisdictional revenues by \$52.4 million--a 15 percent margin increase. NW Natural filed a Long Run Incremental Cost ("LRIC") study with its case that it used to allocate the proposed rate increase to various rate schedules. NW Natural proposed to spread the increase on an equal percent of margin basis. Oregon Staff performed its own LRIC study, which showed that industrial classes of customers are paying less than their cost of service, and proposed to allocate more costs to those schedules. NW Natural adopted Staff's position on rate spread, as did CUB. AWEC submitted its own testimony on rate spread and rate design showing that large gas users and transportation customers are subsidizing other classes of customers and that Staff's cost of service study was flawed.

AWEC was able to settle most of the issues in the proceeding on favorable terms consistent with AWEC's filed testimony. The Parties agreed to an Oregon-allocated increase to revenues of \$16,000,000 (down from the original \$52,000,000), excluding the impact of certain contested issues. Prior to considering these other issues, this level of revenue increase would have resulted in a 4.6 percent margin increase to rates. AWEC was also able to negotiate a favorable rate spread, so that the increase would be spread equally to all customer classes so that no customer class receives more of the increase than other customer classes.

While NW Natural, CUB, and Staff entered into a Second Settlement to address several of the remaining issues in the docket, AWEC opposed the Second Settlement, including the treatment of the company's \$80 million pension balancing account, how to deal with pension expenses going forward, and certain Tax Cuts and Jobs Act adjustments. AWEC objected to the Second Settlement because there was no evidence that customers are responsible for 100 percent of the \$80 million pension balancing account balance. AWEC also disagreed with NW Natural's calculation of the tax savings during the interim period from January 1 to October 31, 2018.

The Oregon Commission sided with AWEC and rejected the Second Settlement. The Oregon Commission ordered a Phase II for the docket to address the pension balancing account and the remaining tax issues.

2. NW Natural –Mist Storage and Optimization

Another issue that was addressed in the NW Natural rate case, even though it was not included in the original filing, was NW Natural's sharing mechanism for revenues it receives related to interstate storage and optimization activities at the Mist storage field. As part of docket UM 1654, the OPUC directed the parties to engage a third-party expert to analyze the cost sharing mechanisms, consistent with the recommendation of AWEC's predecessor, NWIGU. The parties hired Liberty Consulting for that purpose.

AWEC's recommendation, consistent with some of the key findings in the Liberty report, was that the Oregon Commission should increase the level of sharing with customers associated with optimization activities. In the final order, the Commission adopted the recommendations of AWEC, Staff, and CUB with respect to NW Natural's Mist storage and optimization activities. The sharing ratios set forth in Schedule 185 for the regulated, customer owned proportion of Mist optimization will increase in favor of customers to 90 percent customers / 10 percent company. The sharing ratios in Schedule 186, previously allocated 67 percent customers / 33 percent company, are now 90 percent customers / 10 percent company effective November 1, 2018. Further, consistent with the recommendations of AWEC, Staff, and CUB, the Oregon Commission required NW Natural to report optimization revenues as part of its ROO.

NW Natural / Cascade / Avista / PacifiCorp / PGE

1. Investigation of Authority to Defer Capital Costs (UM 1909)

The OPUC opened a generic docket to investigate the scope of its authority to defer capital expenses or

revenues. All utilities intervened in the docket because it addresses the Commission's statutory authority and any policy adopted would be applicable to all utilities. ORS 757.259(2)(e), in relevant part, provides the Oregon Commission with authority to authorize the deferral of identifiable utility "expenses" or "revenues," the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels, or to match appropriately the costs borne by ratepayers with the benefits received by ratepayers.

AWEC fully participated in this docket on both the gas and electric side. It was AWEC's position that the intent of the law authorizing deferrals is to create a limited exception to the normal ratemaking process by providing the Commission with authority to adjust rates when a legitimate ratemaking income or expense item is changing and when the Commission believes rates should be adjusted as a result at some later time. Without this authority, capturing past income and expense items in current or future rates would violate the rule against retroactive ratemaking. However, such deferrals should be used sparingly as an exception to traditional ratemaking and should not be as routine as PGE and the other utilities were advocating.

The Commission's decision ultimately went beyond the position of all parties and concluded that the Commission had no authority to defer any costs associated with constructing an asset. The Commission based its decision on the "context" of the statute, concluding that deferrals must be viewed in the context of accounting principles set forth in other areas of the statute. Based on that approach, the Commission then determined that costs associated with constructing an asset are not an "expense" under accounting principles, but instead are part of a utility's general ledger as Construction Works in Progress. As a result, the Commission concluded that such costs do not fall under the definition of "expenses" as that term is used in the deferral statutes.

This is a very favorable decision for consumers. The utilities have asked for reconsideration of the order.

INTERMOUNTAIN GAS COMPANY

1. Intermountain Gas Company (INT-G-17-07)

On December 18, 2017, Intermountain Gas Company ("Intermountain") filed an application to implement an infrastructure integrity management mechanism. This cost recovery mechanism was designed to allow the company to accelerate the replacement of aging infrastructure and recover the costs outside of a rate case.

NWIGU intervened and filed comments in opposition to Intermountain's proposal. AWEC later noted that programs like this are single issue ratemaking, which have all upside for the company, without looking at any factors which would offset the need for a rate increase to pay for the program. Utilities have an obligation to provide safe and reliable service, the costs of which are recovered in rate proceedings. Idaho Staff also filed comments which supported AWEC's position. The Commission denied the application citing AWEC's comments.

2. Intermountain Gas Company (GNR-U-18-01)

On January 17, 2018, the Idaho Commission directed each rate-regulated utility to file, among other things, revised tariffs that reflect changes in the federal income tax code that resulted from the passage of the Tax Cuts and Jobs Act. Intermountain filed its application on March 23, 2018.

AWEC intervened and participated in multiple settlement conferences with Idaho Staff and Intermountain. As a result of the settlement conferences, the parties were able to agree to the appropriate level of rate adjustments from the Tax Cuts and Jobs Act. Ultimately, the Idaho Commission approved the settlement, which provides for a revenue requirement adjustment of \$5,111,303, which is being returned to customers on an equal

percent of margin basis. AWEC was able to secure this result without the need for an evidentiary hearing, unlike its experience in Washington and Oregon.

2018 Administration, Membership Development and Regulatory Support Accomplishments

In 2018, leadership in the Oregon House of Representatives and Senate, as well as Governor Brown, expressed their commitment to passing cap-and-trade legislation during the 2019 legislative session. The Speaker of the House and Senate President co-chaired a Joint Interim Committee on Carbon Reduction and the Governor's Office created the Carbon Policy Office to engage stakeholders and solicit information regarding the design, implementation, and impacts of cap-and-trade regulation in order to set the groundwork to introduce cap and trade legislation in 2019.

Energy Strategies provided policy research and analytical support to AWEC's executive team and lobbyists participation in the 2018 interim committee hearings and public engagement processes undertaken by the Governor's Carbon Policy Office. In anticipation of the 2019 legislative session, Energy Strategies created a comprehensive searchable data base of every AWEC member facilities' energy use and carbon emissions. They developed an Excel-based cost tool to identify which member facilities would be covered by the cap and trade legislation and the impacts the new regulations would have on each member facilities' electricity, natural gas and emissions compliance costs.

Energy Strategies also conducted a comparative analysis of the structure and performance of California and Oregon's Industrial and Manufacturing sectors to assess whether the economic performance of California's industrial and manufacturing sectors was impacted by implementation of the state's cap-and-trade legislation and whether Oregon's industrial and manufacturing sector is more susceptible to being negatively impacted by cap-and-trade regulations.

Administratively, Energy Strategies played a significant role in the merger of the IGNU and NWIGU organizations. Energy Strategies worked with a third party to design a new "AWEC" logo and letterhead for the joined groups. They also designed a new website, formerly changed IGNU's name through the IRS and state agencies, and merged the budgets of IGNU and NWIGU, as well as the billing process for AWEC assessments.

Energy Strategies also took on the role of administrating the gas portion of the group, as it has done with the electric side of IGNU. They kept IGNU/AWEC members informed of the numerous regulatory and environmental changes that occurred under the Trump Administration. Energy Strategies continued to manage the organization's finances and keep members up to date on energy issues specific to the states they operate in, as well as nationally, in energy briefs, and monthly newsletters. The annual Accomplishments Memo developed by all the parties supporting AWEC provides a useful summary to be shared with management and others for a short snapshot of AWEC's considerable work throughout the year.

In 2018, Energy Strategies planned the three quarterly meetings held in both Oregon and Washington, kept members abreast of the meetings with minutes, as well as assisting AWEC in the annual combined electric and gas energy conference. Energy Strategies also kept the AWEC website updated. They also managed the documents for the September "Update", which replaced the full meeting historically held in Portland based on member comments on the difficulties of traveling to four meetings.

Executive Director's Conclusion

The year 2018 presented AWEC with many legislative and regulatory challenges. Those challenges were all successfully met. The primary reason is the AWEC team of attorneys, experts, lobbyists and Energy Strategies is superb. And, the leadership provided by Ed Finklea, as the Director of Natural Gas, has added much value to the organization.

One of my major focuses is to work closely with the AWEC Board of Directors and their Officers. I'm happy to report they are an excellent group, and I thank them for their time and support of AWEC. With their guidance, the organization was able to maintain the strength and diversity of the membership, while adding two new members and one associate member in 2018. In addition, the organization picked up 11 new members from the NWIGU merger.

AWEC ends 2018 well prepared for future challenges with a strong membership base, an excellent team and solid financial reserves.



Alliance of Western Energy Consumers

Impacts of Cap-and-Trade Program (HB 2020)

About the Alliance of Western Energy Consumers (AWEC): AWEC is a non-profit organization comprised of the largest and most innovative employers in the northwest. AWEC has a large and diversified membership that represents industries such as agriculture, aeronautics, air products, pulp and paper, food processing, information technology, healthcare and more. AWEC works to ensure employers have access to affordable, reliable electricity and natural gas.

In Oregon, AWEC members employ over 50,000 Oregonians in their 73 facilities across the state. In many cases, AWEC members are the major employer in their community.

Impacts of HB 2020 on AWEC Members

- Even though AWEC members' facilities are responsible for only a small amount of greenhouse gas (GHG) emissions, HB 2020 will impose disproportionate costs on AWEC members. We estimate the cumulative compliance and energy cost impacts on AWEC facilities will exceed \$350 million by 2030 and rise to over \$1.5 billion in 2040.
- HB 2020 will increase the costs of electricity and natural gas to all consumers, including AWEC members facilities.

AWEC Members' GHG Emissions

- AWEC members' facilities are a small contributor to Oregon's GHG emissions.
- Of the total GHG emissions covered by HB 2020's cap and trade regulation (52.6 million MTCO2e), AWEC members' 12 covered facilities contribute only 1.57 million metric tons to Oregon's covered emissions.
- Most AWEC member facility emissions are not covered in HB 2020. Total emissions from these plants represent less than 310,000 MTCO2e or .6 percent of Oregon's total emissions.

EITE AWEC Members

- 12 AWEC facilities are designated as EITE and initially receive no-cost allowances to offset the costs of compliance. However, the distribution of allowances is reduced each year starting in 2022. AWEC facilities need to buy allowances to comply with the regulation starting in 2022.
- AWEC members' covered facilities are responsible for less than 3 percent of Oregon's statewide GHG emissions, but they would be required to pay many millions of dollars in compliance costs each year. Compliance costs for those 12 facilities are estimated to be at:
 - \$7.1 million by 2025
 - \$37.3 million by 2030
 - \$70.6 million by 2035
 - \$106.8 million by 2040

- The cumulative costs of these 12 AWEC facilities purchasing allowances is estimated to exceed \$4.1 million by 2025 and grow to over \$1 billion by 2040.
- Compliance costs identified above do not include indirect electricity cost increases.

AWEC Indirect Costs – Electricity

- All AWEC member facilities, even those designated as EITE, are exposed to electricity price increases in either the near- or long-term.
- The cost impact will vary by company depending on their electricity provider. Direct Access Customers get hit the hardest – because their wholesale electricity suppliers don't get the same allowances that IOUs receive – even though they are required to meet the same RPS requirements.
- Price impacts will begin immediately for AWEC members on direct access, amounting to \$4.3 million in 2021 alone. Increased electricity costs for all AWEC electricity customers increase sharply in later years as free allowances decline.
 - \$4.3 million in 2021
 - \$7.5 million in 2025
 - \$11.2 million in 2030
 - \$16.4 million in 2035
 - \$25.5 million in 2040

AWEC Indirect Costs – Natural Gas

- AWEC member facilities not covered by HB 2020 may be significantly impacted by higher natural gas costs if they are ineligible for free allowances. The cost of allowances will be passed on through higher natural gas costs that affect 25 percent, or 5.8 MMBtu, of natural gas consumed by AWEC members facilities.
- Natural gas prices are estimated to increase 29 percent in 2021. By 2030, industrial customers will see a 60 percent increase in natural gas prices.

Increases in natural gas costs for AWEC members will be immediate and are estimated to increase each year the cap and trade regulation is in place.

- \$6.7 million in 2021
- \$11.3 million in 2025
- \$21.9 million in 2030
- \$26.7 million in 2035
- \$33.7 million in 2040
- Between 2021 and 2040 estimates show that AWEC members will spend an addition \$410 million in increased natural gas costs due to HB 2020.

Conclusion – Impacts on AWEC Members

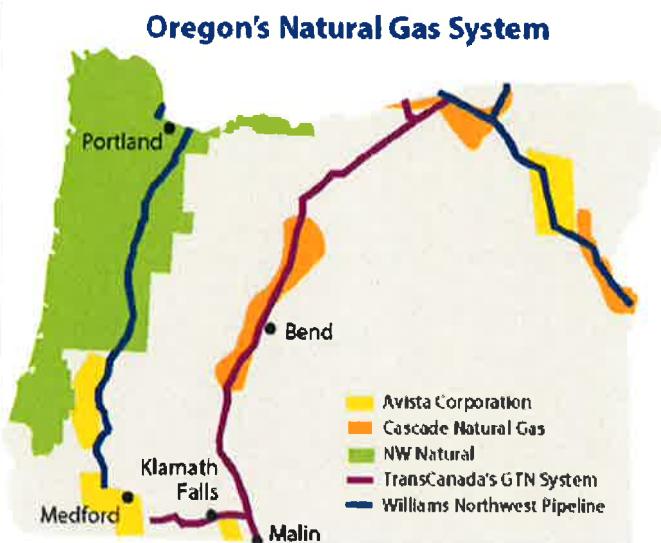
The economic impacts and job losses to AWEC members and communities will likely be significant as a result of HB 2020, as production in these facilities is curtailed and shifted to lower cost states.

HB 2020 Oregon Cap and Trade Fact Sheet



The proposed HB 2020 legislation would have significant and lasting impacts on natural gas rate payers. Customers from all rate classes would experience rapid and increasing costs for simply heating their homes and businesses. The chart below shows the weighted average rate impact for all residential and commercial customers in Oregon, as well as by each of the three LDCs.

HB 2020 Natural Gas Customer Rate Impacts				
	2021	2025	2030	2035
Statewide Weighted Average				
Residential	12%	16%	25%	40%
Commercial	14%	18%	29%	46%
Avista				
Residential	19%	21%	31%	48%
Commercial	18%	18%	27%	56%
Cascade				
Residential	12%	19%	33%	46%
Commercial	15%	23%	40%	46%
NW Natural				
Residential	11%	15%	23%	38%
Commercial	13%	17%	27%	44%



The current HB 2020 proposal gives free credits to Oregon's electric utilities in recognition of prior legislatively mandated green initiatives. It treats the more than two million Oregon residents and businesses who rely on natural gas for warmth, comfort and productive energy differently, ignoring the strides that Oregon LDCs and their customers have made in reducing emissions through system maintenance, modernization and efficiency initiatives. Consider:

- Emissions from residential and commercial* use of natural gas make up about 6% of total statewide GHG emissions according the Oregon Greenhouse Gas Sector-Based Inventory
- Emissions from residential and commercial use of natural gas have increased only 2 percent since 2000. Oregon has added more than 200,000 new natural gas homes (41% increase) and almost 20,000 new businesses (23% increase) over the same period.
- Each Oregon home heated by natural gas emits 29% less carbon than it did in the year 2000. Each commercial natural gas customer emits 19% less carbon than in 2000.
- We burn more natural gas in Oregon to generate electricity than homes and commercial entities combined use directly to heat space and water.

These achievements are not the result of legislation, but that does not make them any less real, nor reduce the commitment required by families, businesses and LDCs to see them through.

Conclusions

HB 2020 as currently composed is punitive to Oregon's natural gas customers and unfair. The state is already seeing emissions reductions from the transition to and increasing reliance on natural gas as a cleaner, reliable fuel for generating electricity. The state is also seeing significant emissions-related benefits by virtue of the highly efficient direct use of natural gas for residential and commercial space and water heat. All natural gas utility customers should receive a fair share of allowances to mitigate rate impacts.

*The commercial sector includes businesses (e.g. restaurants, breweries, laundromats, etc.), buildings and institutions (e.g. schools, universities, hospitals, etc.) that use natural gas for space and water heat.

OREGON CARBON POLICY OFFICE
Summary of Core Elements of the Oregon Climate Action Program

Program element	Description
Statewide GHG goals & cap	
New statewide GHG goals	<p>2035: 45% below 1990 emission levels</p> <p>2050: 80% below 1990 emission levels</p>
Establishment of cap	Places an overall limit across regulated sectors to achieve the state's greenhouse gas goals. The cap declines each year by a constant tonnage amount to achieve a 45% reduction from 1990 levels by 2035, and an 80% reduction below 1990 levels by 2050.
Program coverage	
Gases covered	Greenhouse gases covered include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride and nitrogen trifluoride. The program covers anthropogenic greenhouse gases, which excludes carbon dioxide from certain biofuels (ethanol, biodiesel) and biomass.
Sectors covered	<p>Fossil fuels: All fossil fuels distributed in Oregon, including natural gas, gasoline, diesel and propane</p> <p>Electricity: All electricity generated in Oregon, and electricity imported for use in the state</p> <p>Industrial processes: Landfills and specific manufacturing processes that emit GHGs as a byproduct, including manufacture of cement, pulp and paper products, iron and steel, certain chemicals.</p>
Regulated entities	<p>Emissions from fuels such as gasoline, diesel, and propane will be regulated at the companies importing the fuels for distribution within Oregon.</p> <p>Emissions from natural gas will be regulated at the natural gas utilities for their direct sales to residential, commercial, or industrial customers.</p> <p>Emissions from natural gas sold by marketers and distributors will be regulated at those companies, not at the utility.</p> <p>Emissions from electricity generated in Oregon will be regulated at the generating facilities.</p> <p>Electricity imported for use in Oregon will be regulated at the entities scheduling this power for delivery in the state.</p> <p>Large industrial entities with reported emissions > 25,000 tons will be directly regulated for their process related emissions and natural gas emissions. Emissions from the gas that serves these entities will be subtracted from the emissions obligation of the natural gas utility or marketer that serves them.</p> <p>Public universities or Oregon Health and Science University that exceed the 25,000 ton threshold for direct regulation are not directly regulated by the program. However, this gas would still be covered by the program at the utility or other entity that supplies that gas.</p>

Exemptions & exclusions	<p>The following entities are exempted from being covered by the program:</p> <ul style="list-style-type: none"> • Landfills closed before the effective date of the bill • A consumer-owned utility, or entity scheduling imported electricity on behalf of a consumer owned utility in cases where the emissions from that imported electricity have averaged less than 25,000 tons/year over the past three years • Entities importing less than a small amount of gasoline and diesel fuel – this amount to be determined in rulemaking <p>The following emissions are excluded from being covered by the program:</p> <ul style="list-style-type: none"> • Methane emissions from a landfill that are captured and used to create renewable energy • GHG emissions from combustion of municipal solid waste to create renewable energy • GHG emissions from generation of electricity in Oregon that is delivered to consumers in another state for which the capital and fuel costs are included in the rates of a multi-state utility • GHG emissions from fuels used in aviation, watercraft, or locomotives <p>There is also a temporary exclusion for fluorinated gases generated from semiconductor manufacturing. This exclusion extends through January 1, 2026.</p>
Direct distribution of allowances	
Investor-owned utilities	<p>2021 – 2030: Direct allocation to these companies will follow a forecast of emissions from electricity to serve their retail customers. This forecast will be based on data in the most recent plan acknowledged by the Public Utility Commission or an update to the plan, as of January 1, 2021.</p> <p>2031 – 2050: Direct allocation to these companies will decline at the same annual decline as the program's overall cap, beginning from the allocation made in 2030.</p> <p>Allowances distributed to IOUs can be used for compliance with emissions associated with their Oregon load, or can be monetized to the benefit of the utility's customers. This will be overseen by the Public Utility Commission.</p>
Public power	<p>2021: Direct allocation to entities scheduling electricity for COUs equal to a forecast of emissions in 2021 based on a representative years' emissions.</p> <p>2022 – 2050: Decline from the amount of allowances allocated in 2021 at the same annual decline as the program's overall cap.</p> <p>Allowances distributed to COUs can be used for compliance with emissions associated with their Oregon load, or can be monetized to the benefit of their customers, as overseen by their boards.</p>
Natural gas utilities	<p>Direct allocation to these companies in an amount needed to cover emissions associated with service to their low-income residential customers. This amount will be determined every three years in consultation with the Public Utility Commission.</p>

Emissions Intensive, Trade Exposed Facilities	Directly regulated entities operating in sectors identified as emissions intensive, trade exposed, will receive a direct output-based allocation of allowances based on an initial benchmark. They will receive allowances equal to 100% of the benchmark and the allocation will decline each year at the same rate as the overall rate of decline of the economy-wide cap.
Additional set-asides	
Price containment reserve	Each year, an amount of allowances to be determined in rulemaking will be distributed to a price containment reserve. See the following section on how this price containment reserve would operate.
Voluntary renewable electricity	Allowances may be set aside to account for the voluntary renewable electricity market for new facilities begin operations on or after January 1, 2021.
Electricity price containment reserve	Each year, an amount of allowances to be determined in rulemaking will be distributed to an electricity price containment reserve. Allowances in this reserve will be used to moderate electricity price increases from unexpected increases in emissions that are outside the control of utilities, such as extreme variability in hydroelectric output.
Emissions Intensive, Trade Exposed Process Reserve	Each year, an amount of allowances to be determined in rulemaking will be distributed to an account for emissions intensive, trade exposed entities that experience significant changes to the emissions or their competitive environment. These allowances would also be accessible for direct allocation to new or expanded industrial manufacturing that is identified as emissions-intensive, trade exposed.
Market Design	
Auction	After directly allocating allowances to entities and setting allowances aside in reserve, the state will distribute the remainder of allowances at regular auction. Entities interested in acquiring these allowances can register with the state to participate in the auction and make bids at the auction to purchase them. This distributes allowances to those entities that value them the most.
Price "floor"	The state auction will include a minimum price that the state is willing to sell the allowances made available at the auction.
Price "ceiling"	The state auction will also include a maximum price that allowances can be sold.
Price containment reserve auctions	The state will make available allowances set aside in the allowance price containment reserve for sale at predetermined price points between the price floor and ceiling.
Banking	Entities are able to bank allowances for use in future compliance periods.
Compliance	For each three year compliance period, entities must submit allowances equal to their total emissions over the three years at the end of each compliance period.
Offset credits	
Concept	Offset credits represent emission reductions from sources not covered by the cap. They can be used for compliance for a portion of a regulated entity's compliance obligation. Offset projects must result in greenhouse gas emissions reductions or removals that are real, permanent, quantifiable, verifiable, enforceable, and not otherwise required by law;

	and are in addition to any other greenhouse gas emissions reductions or removals that would otherwise occur.
Restrictions on use	<p>Using up to 8 percent offsets for compliance is subject to the following conditions:</p> <ul style="list-style-type: none"> • <i>Geographic Limits</i>: Offset project must be located in the United States or a jurisdiction with which the state has agreed to link. • <i>Air Quality Limits</i>: The number of offset credits that a regulated entity can submit may be limited if that entity is located in an impacted community and a non-attainment area (significant air quality challenges) or is in violation of their air quality permit. • <i>Direct Environmental Benefits</i>: At least 4 percent of the offsets used for compliance by a regulated entity must have a direct environmental benefit in Oregon.
Oregon-specific offsets	<p>The state will develop offset protocols to fit the needs for Oregon natural and working lands.</p> <p>The state will investigate opportunities to aggregate offset credits to allow smaller landowners to participate in offset projects and investigate offset projects that reduce methane emissions from agriculture.</p>
Agency and Public Input	In developing offset protocols, the agency will work closely with the Department of Agriculture, Board of Forestry, Environmental Justice Task Force, and the Oregon Watershed Enhancement Board, and will convene an advisory committee on the development of offset protocols.



MEMORANDUM

**PRIVILEGED AND CONFIDENTIAL
PLEASE DO NOT DISTRIBUTE**

TO: John Carr, Executive Director, Alliance of Western Energy Consumers
Ed Finklea, Director of Natural Gas, Alliance of Western Energy Consumers

FROM: Chad M. Stokes
Tommy A. Brooks

DATE: March 1, 2019

RE: Memorandum Summarizing State and Federal Issues for Natural Gas Members

Per your request, we have summarized the various state and federal issues impacting natural gas members for discussion during the Alliance of Western Energy Consumers (“AWEC”) meeting on March 6, 2019.

Antitrust Statement

It is the policy of AWEC that the members shall not discuss prices, pricing policies, terms or conditions of the sale or distribution of products, volume of production or production quotas, allocation of territories or customers, boycotts of particular firms or products, or any other matter which might be considered a restraint on competition of any kind.

FEDERAL

1. Enbridge/Westcoast Pipeline

As members are aware, the rupture of the Enbridge/Westcoast Pipeline on October 9, 2018 caused interruptions in the days following the rupture and continues to impact gas service because Northwest Pipeline LLC (“Northwest Pipeline”) has been operating under various stages of entitlements or operational flow orders. The Enbridge rupture occurred on its 36-inch pipeline eight miles north of Prince George, British Columbia and resulted in a loss of all Westcoast deliveries to Northwest Pipeline for gas day October 10, 2018, as both the 36-inch line and the

parallel 30-inch line were shut down for 36 hours. During the gas day of October 11, 2018, service was restored. The two Enbridge lines are currently operating, but at reduced pressure. As of February 29, 2019, the pipeline is operating under an operational flow order because T-South is operating at a significantly reduced capacity. At full capacity, the pipeline is capable of delivering 1.7 Bcf/day.

One of the biggest impacts to our members is that Northwest Pipeline has been operating under entitlements and local distribution companies have followed suit. During an entitlement period, the penalties relating to daily balancing can be severe. The problem was most severe on Puget Sound Energy’s (“Puget”) system before the tariff change that went into effect on March 1, 2019 discussed below, but all local distribution companies serving in the I-5 corridor have been operating under entitlements, and they anticipate doing so for an extended period of time.

The other implication of the reduced deliveries at Sumas has been that prices at Sumas, especially daily prices, have skyrocketed from time to time since the event. The high Sumas prices continue to impact transportation customers directly and will impact sales customers in the future, as the higher gas costs will be passed through the Purchased Gas Adjustment (“PGA”) proceedings next year.

2. Northwest Pipeline (FERC Docket RP19-571)

On January 18, 2019, in Docket No. RP19-571, Northwest Pipeline filed with the Federal Energy Regulatory Commission (“FERC”) an out-of-cycle fuel filing to increase the fuel factor from 1.00% to 1.61% for Northwest Pipeline’s Transportation Rate Schedules TF-1, TF-2, TI-1 and DEX-1. This change was referenced in critical notice 19-004. Northwest Pipeline requested an expedited approval for this filing, which FERC granted. This revised fuel factor rate went into effect on February 1, 2019. Northwest Pipeline is expected to make another fuel filing this spring. This out-of-cycle filing is directly related to the Enbridge incident.

WASHINGTON

3. Puget Sound Energy Tariff Issue

Due to the pipeline rupture on Enbridge Pipeline, Northwest Pipeline has and continues to issue critical notices which have required in some cases immediate action from its customers. These critical notices include declaring force majeure, asking its customers to reduce loads, and imposing various stages of overrun entitlements. As expected, Puget has passed the entitlements to its customers.

As we discussed at the last meeting, Puget’s tariffs related to entitlements and curtailments were a mess and very unfavorable to transportation customers. AWEC worked with Puget, Cost Management Services, IGI Resources, and WestRock’s Bruce Martin to clean up Puget’s tariffs so that the penalties for both overrun and underrun entitlements are appropriate. The main issue with Puget’s tariffs is that they conflated a “curtailment” and an “entitlement.” In the prior version of

the tariffs, during an overrun entitlement, volumes of gas delivered in excess of 103 percent (or other percentage determined by Puget) were to be billed at the unauthorized use of gas rate described in Section 7 of Rule 29. Section 7 of Rule 29 stated that “all gas used in excess of such curtailment will be billed at the applicable Rate Schedule No. 41 delivery and gas cost commodity rates; and, in addition, the Customer shall pay any applicable penalties as described in Rule 23.” Rule 23 provided that the penalty for unauthorized use of gas during a curtailment period for the first 2 hours is \$5 per therm, which increases to \$10 per therm after the initial 2 hours. Further, Rule 23 provided that the customer is responsible for additional charges for penalties imposed by upstream transmission providers. In contrast, during an entitlement imposed by the interstate pipeline, which requires daily balancing, Northwest Pipeline’s tariffs do not include the same level of penalties, which led to the conclusion that the penalties in Puget’s tariffs were excessive. Northwest Pipeline imposes the following penalties for unauthorized overrun charges: the greater of \$10 per Dth or 150 percent of the highest midpoint price at NW Wyo. Pool, NW s. of Green River, Stanfield Ore., NW Can. Bdr. (Sumas), Kern River Opal, or El Paso Bondad as reflected in the Daily Price Survey published in “Gas Daily.”

Puget and AWEC negotiated for months over language to clean up the tariffs so that the penalty for overrun entitlements is consistent with the pipeline penalties, leaving in place the \$10.00 per therm penalty only for violating a curtailment order. AWEC was also able to convince Puget to remove its ability to confiscate customer gas during an underrun entitlement, and to reduce the penalty to \$1/therm, consistent with other utilities. The tariff changes were filed on January 25, 2019 and are effective as of March 1, 2019. Unfortunately, this change only corrects things going forward, so there could still be penalties for customers under the old tariff language.

4. NW Natural General Rate Case, Washington (UG-181053)

On December 31, 2018, NW Natural filed to increase its rates for distribution services in Washington. The filing seeks to increase revenues by \$8.3 million, which is a margin increase of approximately 20 percent. NW Natural has also proposed an environmental cost recovery mechanism, and a mechanism that adjusts rates for the effects of the Tax Cuts and Jobs Act. AWEC has intervened, started its review of the filing, and issued an initial round of data requests. There is an initial settlement conference schedule on April 22nd and testimony is due on June 10th. We will have more to report at the next meeting.

5. Puget Sound Energy Expedited Rate Filing (UE-180899, UG-180900)

On November 7, 2018, Puget filed an expedited rate filing (“ERF”), requesting a rate increase of \$18.9 million (.9 percent) for electric service and \$21.7 million (2.7 percent) for gas service. In contrast to a general rate filing, an ERF allows for the cost recovery of certain types of expenses on an expedited basis so long as, in general, the rate impact is less than 3 percent.

To meet this requirement, although it stated that it could justify a much higher increase, Puget requested an overall increase to gas rates of 2.9%. In order to achieve this, however, Puget masked higher rate increases for transportation customers of up to 6% by bundling its transportation rate schedules with their sales schedule counterparts. Puget sought a relatively modest increase to electric customers of less than 1%.

Parties held settlement discussions in January, which led to a full settlement on January 30, 2019. The settlement maintains existing electric rates and authorizes a 2.9% overall gas rate increase. At AWEC's insistence, however, Puget agreed to also limit the rate increase for all transportation schedules to 2.9%. The settlement also preserved for litigation in a future rate case all remaining portions of the tax savings associated with the Tax Cuts and Jobs Act that Puget is deferring. This includes most excess deferred income tax (EDIT) savings and the "current" (i.e., non-EDIT) tax savings Puget incurred from January through April of 2018.

On February 21, 2019, the Commission approved the settlement, but subject to a condition. The Commission found that, while continued deferral of EDIT-related tax savings was justified due to the complexity associated with calculating this savings, Puget had not justified continuing to defer the January through April 2018 current tax savings. Consequently, the Commission required Puget to amortize this savings over a 12-month period beginning May 1, 2019. This will result in an additional \$24 million savings passed through to electric customers over this period, and \$10.5 million for gas customers.

6. Generic Cost of Service Docket (UG 170003)

Washington Staff continues to convene utilities and stakeholders to determine if there is a more consistent, agreed-upon methodology for utilities to use when conducting cost of service studies. On February 22, 2019, Washington Staff held a workshop to discuss several issues. In the near future, the Commission will issue a set of draft informal rules relating to gas cost of service. The purpose of the workshop was to provide input to Commission Staff that will be incorporated into those rules. There will likely be an opportunity in the future for AWEC and others to comment on the informal rules, and an additional process if the Washington Commission decides to begin the formal rulemaking process.

As part of this workshop and Washington Staff's overall approach to cost of service, it has been using the following guiding principles: (1) consider the direct allocation of costs where possible; (2) develop and rely on robust data; (3) strike a balance between the operation of a utility's system with the design of the utility's system; and (4) prioritize simplicity in any ultimate methodology. The third guiding principle is illustrative of the reason there have been disputes over cost of service in recent rate cases. AWEC's focus on the gas side has been to show that the cost of gas mains is highly correlated with the design of a system, which serves all firm customers under defined peak conditions. The Washington Commission's reliance on the "Peak and Average" methodology, however, places a large emphasis on how a system is operated under normal conditions (i.e. not on a design day), which has the result of favoring lower volume customers over large-volume customers when it comes to cost allocation of mains. By seeking to

“strike a balance” between those points of view, Washington Staff is signaling that it will continue to be unsupportive of a methodology that is based solely on design-day demand.

Of the specific issues for which Washington Staff sought feedback, most are not controversial, although the stakeholders continue to discuss what level of detail should be provided in a general rate case. For example, the Intangible Plant category can be large (Puget’s total in this category approaches \$100 million), but consists of thousands of relatively small line items comprising expenditures like software license orders. While there may be some major expenditures within this category, the utilities note that listing or otherwise trying to make sub-categories for every line item is inefficient and not very revealing. Staff, for its part, remains concerned that some of these items may be improperly allocated, especially if they are rolled up with other expenditures. This is an area where there is still no resolution and Washington Staff will likely have to present a more specific proposal that then gets modified by additional input.

The more controversial issue in cost allocation remains the allocation of mains. Although Commission Staff is aware of this controversy, its initial proposal is essentially to stick with the status quo and use a form of the Peak and Average methodology – an approach AWEC still opposes. Cascade’s expert witness helpfully prepared a summary showing the difference between that methodology and four other methodologies, using Cascade’s most recent general rate case as a case study. This included a comparison to the “Excess and Average” methodology and a “Design Day” methodology. The result of the comparison predictably showed that the Design Day approach favors large volume customers, the Peak and Average approach favors small volume customers, and the Excess and Average approach is somewhere in between.

In the spirit of compromise, AWEC has recently been advocating for a move to the Excess and Average approach. AWEC’s expert has noted that this approach avoids the major pitfall of the Peak and Average methodology, which is to double count the “average” part of the equation because it takes throughput into account both as part of the peak and as part of the average. It also recognizes that all sizes of main, even those not used by large volume customers, contribute to overall system capacity. AWEC has also commented that, if the stakeholders cannot agree on a single methodology, a utility could submit a variety of cost of service methodologies and let parties to a rate case comment on which one results in the most appropriate outcome in a particular case. This approach would be similar to how cost of capital issues are litigated, with parties identifying a range of acceptable outcomes and the Commission making a final decision based on its determination of what is fair, just, and reasonable.

With the exception of Commission Staff, there seems to be broad consensus that the multi-methodology approach is the best approach. The utilities noted that it is not too burdensome to prepare and submit multiple cost of service proposals because the models are all fairly simple and rely on the same data.

Commission Staff is unlikely to hold additional workshops. We anticipate the next step in this docket will be the release of the informal draft rules, and we will report back when those informal draft rules are available.

7. Puget, Cascade, NW Natural, Avista Hedging Review (UG-132019)

On October 30, 2013, the Commission opened a Staff Investigation in Docket No. UG-132019 regarding policy issues related to the Washington natural gas utilities' hedging practices and transaction reporting. In UG-132019, the Commission issued a "Policy and Interpretive Statement on Local Distribution Companies' Natural Gas Hedging Practices" ("Policy Statement"). The Policy Statement outlines the process each local distribution company should follow in order to incorporate risk-responsive hedges into their individual portfolios. The Policy Statement required:

- Each company to submit, as part of the 2017 PGA filing, a preliminary hedging plan that outlines the company's intended path to incorporate risk-responsive hedging strategies for the upcoming year. This plan should articulate the company's hedging objectives and communicate its approach to address the basic elements of risk-responsive hedging: objectives and goals, exposure quantification, strategic initiatives, and oversight and control.
- Each company to submit annual comprehensive hedging plans that demonstrate the integration of risk responsive strategies into the Companies' overall hedging framework. As part of the comprehensive annual hedging plan, the Companies were required to incorporate a retrospective hedging report. This report was required to include a narrative of the utility's perspective on the execution of its prior year hedging strategy. Additionally, the report was required to include a discussion providing insight about whether the metrics and tolerances identified in the previous year's plan continue to be appropriate and how the Company's retrospective evaluation has informed modifications to the forthcoming year's hedging plan.

All Washington gas utilities are continuing to work on their hedging plans. On December 14, 2018, the Commission held a workshop for the utilities to present their current hedging plans, and changes that have been made to such plans to be consistent with the guidelines set forth in the Policy Statement. This workshop was timely, because the Enbridge incident brought renewed focus on the utilities' hedging practices and what lessons should be learned from the incident. The focus of the discussions was what the hedging plans are supposed to accomplish, whether they are working, and the changes that are required in the future. These workshops will continue until the utilities have a final hedging plan to present.

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8. NW Natural Rate Case (UG-344)

On December 29, 2017, NW Natural filed to increase its annual Oregon jurisdictional revenues by \$52.4 million--a 15 percent margin increase. NW Natural filed a Long Run Incremental Cost ("LRIC") study with its case that it used to allocate the proposed rate increase to various rate schedules. Based in part on those results and to try to accommodate Staff and CUB,

NW Natural proposed to spread the increase on an equal percent of margin basis, even though some industrial customers should have received decreases. Oregon Staff performed its own LRIC study, which showed that industrial classes of customers are paying less than their cost of service, and proposed to allocate more costs to those schedules. NW Natural adopted Staff's position on rate spread, as did CUB. AWEC submitted its own testimony on rate spread and rate design showing that large gas users and transportation customers are subsidizing other classes of customers, and that Staff's cost of service study was flawed.

AWEC filed testimony addressing return on equity, revenue requirement, cost sharing from the Mist storage facility, LRIC, pension issues, and rate spread. AWEC also presented testimony to ensure that all the benefits of the Tax Cuts and Jobs Act are returned to customers, a position that NW Natural opposed.

The parties met on several occasions to discuss settlement. AWEC was able to settle most of the issues in the proceeding with Staff, CUB and NW Natural on favorable terms. The Parties agreed to an Oregon-allocated increase to revenues of \$16,000,000 (down from the original \$52,000,000), excluding the impact of certain contested issues. Prior to considering these other issues, this level of revenue increase would have resulted in a 4.6 percent margin increase to rates. This amount would be spread equally to all customer classes so that no customer class receives more of the increase than other customer classes.

While NW Natural, CUB and Staff entered into a Second Settlement to address several of the remaining issues in the docket, AWEC opposed the Second Settlement. The Second Settlement covered: (a) the treatment of the Company's \$80 million pension balancing account and how to deal with pension expenses going forward; (b) the calculation and treatment of Excess Deferred Federal Income Taxes in the test period from the Tax Cuts and Jobs Act; and (c) the calculation and treatment of the Interim Period tax savings from the Tax Cuts and Jobs Act deferred over the period January 1, 2017 through the November 1, 2018. AWEC objected to the Second Settlement because there was no evidence in the record demonstrating that ratepayers are responsible for all of the amounts in the pension balancing account and AWEC disagreed with the Tax Cuts and Jobs Act adjustment proposed by NW Natural.

The Commission sided with AWEC and rejected the Second Settlement. The Commission ordered a Phase II for the docket to address the pension balancing account and the remaining tax issues.

After filing testimony in Phase II of UG 344, the parties met on several occasions to discuss settlement. As a direct result of AWEC's efforts, AWEC was able to settle the pension and tax issues with the parties on the following terms: (a) Applying \$7.07 million of amounts deferred in the Interim Period Deferral, including interest, as an offset to the balance in the pension balancing account; and (b) Applying the \$5.44 million of EDIT (Other Non-Plant) as an offset to the balance in the pension balancing account; and further reducing the pension balancing account balance by \$10.5 million. NW Natural also agreed to reduce the interest rate on the pension balancing account from the Company's authorized rate of return, 7.317 percent, to 4.3 percent. Further, the

reductions described above were made effective as of October 31, 2018, eliminating millions in interest charges. If and when the Phase II settlement is approved, NW Natural will amortize the balance of the pension balancing account over a ten-year period by collecting \$7.13 million per year from all customers on an equal percentage of margin basis through a separate tariff rider.

9. NW Natural Integrated Resource Plan (LC-71)

AWEC has been participating in NW Natural's 2018 Integrated Resource Plan ("IRP"). The areas of focus for AWEC were the distribution system upgrades proposed by NW Natural because such investments can be a significant driver in increasing customer rates. In the 2018 IRP, NW Natural proposed six pipeline reinforcement projects in Oregon which, combined, would cost between \$45 and \$65 million dollars. Due to the significant impact these projects would have on customer rates, NW Natural has the burden to demonstrate that all of the projects are needed. AWEC supported Staff's view that more information was needed to assess the need for the projects, but Staff changed its position at the last minute and argued that NW Natural had met its burden in its final report to the Commission.

The other area of focus was NW Natural's requested acknowledgment of its Renewable Gas Supply Resource Evaluation Methodology to evaluate Renewable Natural Gas ("RNG") resources against conventional sources of gas. In initial comments, both Staff and CUB were supportive of an RNG pilot program that would identify sources, technologies, and best practices that might be required to bring RNG onto the system. AWEC, on the other hand, argued that in light of the legislation currently being proposed in Oregon and sponsored by NW Natural, an RNG pilot program is premature. AWEC also had concerns about acknowledging a methodology, as opposed to a specific project, because this is not customarily done in integrated resource planning proceedings.

Senate Bill 98 ("SB 98") in the current legislative session proposes to allow Oregon gas utilities to voluntarily pursue purchases of RNG for their core customers as an alternative to traditional natural gas that is produced either from wells or from shale. In comments, AWEC did not oppose a voluntary effort to get biogas on the system to substitute for a portion of the portfolio currently used to serve core customers. AWEC did stress that the aggressive goals set forth in SB 98 may create an unrealistic expectation as to the degree to which renewable gas can replace traditional gas without simply driving up the overall cost of gas. AWEC also made clear that it is very concerned with proposals to authorize local distribution companies to spend up to 5% of their revenue requirement on infrastructure investments that would be used to connect renewable gas sources to the gas distribution grid, and to automatically pass through those costs through a tracking mechanism without the offsetting aspects of a general rate case. This would create an almost-guaranteed profit stream for the local distribution companies regardless of how they are managing the rest of their system. Such a remarkable increase in spending could occur year after year and will fall to the utility's customers.

While SB 98 is not the proposal in the IRP, AWEC had questions and concerns about the implications of acknowledging a "methodology" for future use without clear guidelines, goals, cost

limitations, and prudence reviews, and without knowing how that methodology will be incorporated into the changes in state law if SB 98 passes. AWEC argued that further detail of an RNG pilot program should be explored after the legislation session is completed. The Commission acknowledged NW Natural's 2018 IRP with the conditions supported by Commission Staff. AWEC will continue to monitor the RNG program.

10. Investigation of Authority to Defer Capital Costs (UM 1909)

As we previously reported, the Oregon Commission opened a generic docket to investigate the scope of its authority to defer capital expenses or revenues. All utilities intervened in the docket because it addresses the Commission's statutory authority and the resulting policy will be applicable to all utilities. ORS 757.259(2)(e), in relevant part, provides the Oregon Commission with authority to authorize the deferral of identifiable utility "expenses" or "revenues," the recovery or refund of which the commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuation of rate levels, or to match appropriately the costs borne by ratepayers with the benefits received by ratepayers.

AWEC fully participated in this docket on both the gas and electric side. Participation in this docket was largely through briefs submitted in response to an opening brief by the Oregon Commission staff. AWEC submitted its brief jointly with CUB.

The Oregon Commission initiated this docket following a proposal by Portland General Electric to defer the revenue requirement associated with new plant that went into service after PGE's last rate case. PGE's proposal would have allowed it to begin accruing a return prior to a full determination by the Oregon Commission that the new plant is a legitimate part of the utility's operations. While AWEC believed PGE would likely be able to make the case that all or a portion of the expense of such a plant investment is warranted, it was AWEC's opinion that the deferral process short-circuits the traditional ratemaking process. The benefit of a deferral for PGE and other utilities is that it begins accruing a return on the increased cost it is experiencing for later recovery in rates. The benefit, however, occurs without taking into account any decreases in costs that could offset the increase and that would otherwise be revealed in a general rate case. AWEC recognizes that there may be a small delay between the period when a utility makes a large capital investment and when it begins recovering those costs in rates, but this regulatory lag is an accepted part of the traditional ratemaking process and utilities have other ways of managing those costs.

It was AWEC's, CUB's, and the Oregon Staff's position that the intent of the law authorizing deferrals is to create a limited exception to the normal ratemaking process by providing the Commission with authority to adjust rates when a legitimate ratemaking income or expense item is changing and when the Commission believes rates should be adjusted as a result at some later time. Without this authority, capturing past income and expense items in current or future rates would violate the rule against retroactive ratemaking. However, such deferrals should be used sparingly as an exception to traditional ratemaking and should not be as routine as PGE and the other utilities were advocating.

The Commission mostly sided with AWEC, CUB, and the Oregon Staff. The specific question presented in the docket was what type of revenues and expenses can be deferred, what the scope of the terms “revenues” and “expenses” includes, and what policy considerations the Oregon Commission should apply. The Commission flatly rejected the joint utilities’ argument that any “cost” of doing business is necessarily an “expense” and, therefore, capable of deferral. Under the utilities’ argument, because a utility’s revenue requirement has certain costs imbedded in it, for example the cost of obtaining capital, even revenue requirement (which includes profit) would be capable of deferral. This argument was untenable to AWEC and ultimately to the Commission. When an expense is deferred, the utility accrues a return on that expense at its authorized rate until that amount is amortized into rates, at which time it begins earning a lower rate. A deferral of the revenue requirement associated with capital investments (which already includes a component of the utility’s return on investment) would allow a utility to double up and effectively earn a return on its “return on investment.”

The Commission’s decision ultimately went beyond the position of all parties and concluded that the Commission had no authority to defer any costs associated with constructing an asset. The Commission based its decision on the “context” of the statute, concluding that the statutory language relating to deferrals must be viewed in the context of accounting principles. Based on that approach, the Commission then determined that costs associated with constructing an asset are not an “expense” under accounting principles, but instead are part of a utility’s general ledger as Construction Works in Progress. As a result, the Commission concluded that such costs do not fall under the definition of “expenses” as that term is used in the deferral statutes.

This decision is a departure from earlier Commission decisions, most of which involved the approval of settlements allowing utilities to defer portions of capital investments. The Commission recognized the significance of this change and noted it impacts the methodologies currently used by PGE and PacifiCorp under ORS 469A.120 for costs associated with the Renewable Portfolio Standards. The Commission therefore directed Staff to lead an effort to modify those methodologies and reiterated that it would not approve such methodologies in settlement agreements going forward.

Not surprisingly, the utilities filed a motion for reconsideration or rehearing, which AWEC and CUB opposed. The Commission denied the motion for reconsideration or rehearing, but opened a separate investigation “to explore the implications of this decision, and to address options to address recovery of capital costs consistent with our legal authority and the public interest.” AWEC will be involved in the new investigation.

11. Cascade Natural Gas Oregon Rate Case (UG 347)

On May 31, 2018, Cascade filed for authority to increase its rates by \$2,310,808 or 3.53%. Before the case was filed, AWEC and other parties settled Cascade’s ROE at 9.4 percent. AWEC identified several areas of concern with Cascade’s filing, including the fact that the actual amount of the proposed increase is greater than it appears, because the increase is offset by the revenue

impact of approximately \$1.5 to \$2 million in Tax Cuts and Jobs Act adjustments. Further, Cascade's rate spread and rate design proposal was unacceptable because Cascade decided, without notice, to change Schedule 163 from interruptible to firm service. As a result, Schedule 163 would have received a 19.87 percent increase for general transportation service because those customers would be subject to capacity charges associated with firm service.

Cascade also proposed a safety tracker for immediate recovery of plant investments related to safety similar to Intermountain's failed proposal in Idaho. In its testimony, AWEC noted that programs like this are single issue ratemaking, which have all upside for the company, without looking at any factors which would offset the need for a rate increase to pay for the program. Utilities have an obligation to provide safe and reliable service, the costs of which are recovered in rate proceedings.

AWEC filed testimony arguing that Cascade's rate spread and rate design proposal was unreasonable, and that Cascade's revenue requirement was significantly overstated. AWEC also argued that customers should receive the benefits of the Tax Cuts and Jobs Act in rates, and Cascade should not be allowed to retain this money to bolster its earnings.

After a series of settlement conferences, the parties were able to reach a settlement, which provided for a revenue requirement increase of \$1,175,000 (before considering all the impacts of the Tax Cuts and Jobs Act). Cascade agreed to withdraw its request to change Schedule 163 from interruptible to firm service in this case. Because Cascade was arguing that Schedule 163 should be treated as firm because those customers are never interrupted, we expect Cascade to bring this up again in future proceedings. AWEC indicated it would not object to a new firm transportation option for those customers desiring that level of service, but insisted on retaining interruptible service as an option. Cascade also agreed to remove the safety tracker proposal from the rate case and file it separately with the Commission. Finally, the parties will address the Interim Period tax savings from the Tax Cuts and Jobs Act in the Commission's ongoing tax docket UM 1922. We believe the Interim Period tax savings will further reduce rates between \$500,000 and \$1 million. The Stipulation and supporting testimony were filed in February. We are now waiting for an Order from the Commission.

12. Avista Tax Docket (UM 1918)

The income tax expense currently included in Avista's base rates was approved in its last general rate case (Docket UG 325) and does not reflect any of the tax benefits from the Tax Cuts and Jobs Act. At the February 14, 2019 public meeting, the Commission approved certain benefits from the Tax Cuts and Jobs Act being returned to customers. The money being returned to customers reflects the difference between the tax rate included for ratemaking purposes in UG 325 (35 percent), and the tax rate that exists now (21 percent). Beginning on March 1, 2019, for a period of 12 months, \$3.837 million will be returned to ratepayers for a 12-month period on an equal percent of margin basis. Within each service schedule (i.e., rate design), the Company will apply a uniform cents per therm to the volumetric block rates by rate schedule.

13. Cascade Tax Docket (UM 1922)

AWEC continues to work with Commission Staff to ensure that all of the benefits of the Tax Cuts and Jobs Act are returned to ratepayers of Cascade. Cascade continues to argue that it should be allowed to retain some of the benefits of the Tax Cuts and Jobs Act if it is underearning, a position AWEC opposes. Cascade made a similar argument in Washington, but the Washington Commission sided with AWEC and ordered that all of the benefits of the Tax Cuts and Jobs Act be returned to ratepayers.

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14. Avista / Hydro One Merger

After the state utility commissions of Washington and Idaho rejected Avista's proposed merger with Hydro One Limited ("Hydro One"), the Oregon Commission dismissed the application.

Under the Agreement and Plan of Merger ("Merger Agreement") between Avista and Hydro One Limited, Hydro One Limited committed to pay Avista a fee of \$103,000,000 in the event the Merger Agreement is terminated in certain circumstances, including when "Regulatory Approvals" required under the Merger Agreement have not been obtained. On January 23, 2019, Avista filed a notice in Docket UM 1897 stating that the parties to the Merger Agreement had terminated the merger. While customers are not entitled to that money, there is a certain amount of board, management, and employee time embedded in rates, and there is a strong argument that the board, management, and certain employees were focused more on the merger than typical operations. These issues will be explored in Avista's next rate case.



Weekly Legislative Report

Alliance of Western Energy Consumers

March 3, 2019

Fiscal Committee Week Ends in a Climate Crescendo!

It was a week on the legislative schedule focused on the fiscal committees — Ways & Means and Transportation in the Senate and Finance, Appropriations, and Transportation in the House. Those committees worked long hours holding public hearings and taking votes on dozens of bills. Most passed; some died failing to make a Friday (3/1) deadline. Once the bill tracking system catches up, they'll be labelled DEAD for the session.

The week, however, will be better remembered for ending in a climate crescendo! On Friday, Governor Jay Inslee (D) official announced his run for President based on a campaign to defeat climate change. Here's a link to his video entitled *This is Our Moment*: <https://jayinslee.com/>

Not by coincidence, the same morning as Inslee's announcement, the State Senate voted along party lines to pass the Governor's 100% Clean Energy bill (E2SSB 5116). During a two-hour floor debate the day before, Democrats voted down a couple dozen Republican amendments but adopted a few of their own, including a reduction in the cost cap from 3% to 2% annually. Significant, yes, but it needs to be put in context. In addition to any other rate proceedings, this is an extra 2% added to rates every year through 2045 all to be invested in carbon-free generation. Other amendments to provide an off-ramp in the event of "rate shock" were all rejected.

E2SSB 5116 now goes to the House, which allowed the companion measure (2SHB 1211) to die. A public hearing in the Environment & Energy Committee is already scheduled for Tuesday (3/5), and Chair Joe Fitzgibbon (D), who isn't happy with some of the changes the Senate made to the original bill, is expected to act quickly — likely pushing the measure in the wrong direction.

Now that Clean Energy is out of the Senate, Environment, Energy & Technology Chair Reuven Carlyle (D) is expected to formally introduce his cap-and-trade legislation. And if all that wasn't enough, Senator Steve Hobbs (D) introduced a carbon fee of \$15 a metric ton as part of the \$17 billion package to fund transportation infrastructure.

I testified for AWEC against SB 5971 as it applies to electricity and natural gas consumption based on a lack of nexus. I'm also working with the Chair Hobbs and his staff on an exemption, at a minimum, for an inclusive list of energy-intensive, trade-exposed sectors by NAICS Code.

Other elements of the Governor's Climate package are also advancing. We've negotiated a rate impact cap of one-quarter of one-percent for all utility investments in electrification of the transportation grid, and are seeking a clarifying amendment to protect natural gas transport customers from costs associated with requirement investments in renewable natural gas.

Lastly, it's noteworthy that WUTC Chair Dave Danner, who is a gubernatorial appointee, was confirmed unanimously (46-0-3) by the State Senate on Friday (3/1) to serve another six-year term extending through 2024. Danner has been an advocate for payments of stranded costs and defined service territories.

Upcoming Events

Environment & Energy (House) - HHR B, JLOB - 3/5 @ 8:00am

- 2SSB 5116 - Public Hearing - Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future. (If measure is referred to committee.)

Bill Tracking Summary

<u>Bill Details</u>	<u>Status</u>	<u>Sponsor</u>	<u>Priority</u>	<u>Position</u>
Natural gas tax treatment Concerning the tax treatment of renewable natural gas.	H Rules R	Mosbrucker	Monitoring	Neutral
HB 1070 (SB 5108) <i>Summary:</i> Provides a public utility tax exemption on the sale by a gas distribution business of renewable natural gas. States that the sale of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas by a gas distribution business, are not exempt from business and occupation taxes under certain circumstances.				
HB 1102 (SB 5134) <i>Summary:</i> Funds capital projects.	H Cap Budget	Tharinger	Monitoring	Neutral
HB 1108 (SB 5154) <i>Summary:</i> Makes 2017-2019 biennium second supplemental operating appropriations.	H Approps	Ormsby	Monitoring	Neutral
HB 1109 (SB 5153) <i>Summary:</i> Makes 2019-2021 biennium operating appropriations.	H Approps	Ormsby	High	Neutral
2SHB 1110 (SB 5412) <i>Summary:</i>	H Rules R	Fitzgibbon	Monitoring	Neutral
SHB 1113 <i>Summary:</i>	H Approps	Slatter	Medium	Concerns
Greenhouse emission limits Amending state greenhouse gas emission limits for consistency with the most recent assessment of climate change science and with the United States' commitment under the 2015 Paris climate				

agreement.

Summary:

Distributed energy	H 2nd Reading	Morris	Monitoring	Neutral
Enabling electric utilities to prepare for the distributed energy future.				

Summary: Declares that the policy of the state, that a distributed energy resources planning process engaged in by an electric utility, should accomplish the following: (1) Identify the data gaps that impede a robust planning process as well as any upgrades; (2) Propose monitoring, control, and metering upgrades; (3) Identify potential programs and tariffs to fairly compensate customers for the value of their distributed energy resources; (4) Forecast the growth of distributed energy resources on the utility's distribution system; (5) Provide a ten-year plan for distribution system investments and an analysis of nonwires alternatives for major transmission and distribution investments; and (6) Include the distributed energy resources in the plan in the utility's integrated resource plan. Requires the legislature to, by January 1, 2023, conduct an initial review of the state's policy pertaining to distributed energy resources planning.

Transp. electrification	H Env & Energy	Morris	Medium	Concerns
Concerning the electrification of transportation.				

HB 1127
(Dead)

Summary: Authorizes the governing authority of an electric utility, formed under chapter 35.92 RCW (municipal utilities), and the commission of a public utility district to adopt a transportation electrification plan. Requires the department of commerce to arrange for a study of utility capital expenditures projected to be driven by growth in distributed resources, including photovoltaic systems, electric vehicles, and other customer-owned technologies identified as likely to cause a shift in capital expenditures. Requires the study to survey each of the state's utilities and include a low and high adoption scenario for each resource. Provides that this act is null and void if appropriations are not approved.

Electric & nat gas companies	H Env & Energy	Morris	Medium	Concerns
Authorizing an alternative form of regulation of electrical and natural gas companies.				

HB 1128
(Dead)

Summary: Authorizes the utilities and transportation commission to regulate an electrical or gas company by authorizing an alternative form of regulation. Requires electrical companies, gas companies, multistate electric companies, and/or the commission to use the greenhouse gas planning adder under certain circumstances.

Customer-sited electricity	H Env & Energy	Morris	Monitoring	Neutral
Concerning customer-sited electricity generation.				

HB 1129
(Dead)

Summary: Authorizes an electric utility to: (1) Offer to make net metering available to eligible customer-generators with large net metering systems or small net metering systems; (2) Offer an alternative to net metering for customer-generators with large net metering systems or small net metering systems in all or certain increments of the utility's distribution system; and (3) Use net metering credits to assist qualified low-income residential customers of the electric utility in paying their electricity bills. Places responsibility on a customer-generator for the purchase of a production meter and software if it is required by the electric utility to provide meter aggregation. Requires customer billings issued by certain light or power businesses or gas distribution businesses to include the total amount of kilowatt-hours of electricity consumed for the most recent twelve-month period.

	Clean energy Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.	H Approps	Tarleton	High	Concerns
SHB 1211 (E2SSB 5116)	<i>Summary:</i>				
SHB 1226	Clean energy Encouraging investment in and reducing the costs of transitioning to the clean energy future.	H Finance	DeBolt	Medium	Neutral
	<i>Summary:</i>				
HB 1232 (Dead)	Hydroelectricity/renewable Recognizing hydroelectricity as an eligible renewable resource in the energy independence act.	H Env & Energy	Griffey	Medium	Support
	<i>Summary:</i> Revises the definition of "eligible renewable resource," for purposes of the energy independence act, to include electricity from a generation facility powered by water that commenced operation before March 31, 1999, where the facility is located in the Pacific Northwest.				
SHB 1257 (2SSB 5293)	Energy efficiency Concerning energy efficiency.	H Approps	Doglio	Monitoring	Concerns
	<i>Summary:</i>				
SHB 1332 (SB 5329)	Energy site eval. council Concerning updating and streamlining energy facility site evaluation council operations.	H 2nd Reading	Wylie	Monitoring	Neutral
	<i>Summary:</i>				
SHB 1334 (SSB 5305)	Electric util wildland fires Concerning electric utility wildland fire prevention.	H Rules R	Blake	Monitoring	Neutral
	<i>Summary:</i>				
SHB 1512	Transp. electrification Concerning the electrification of transportation.	H 2nd Reading	Fey	Medium	Concerns
	<i>Summary:</i>				
HB 1549 (Dead) (SB 5561)	Greenhouse emissions eval. Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.	H Env & Energy	Blake	Monitoring	Neutral
	<i>Summary:</i> Requires the department of ecology to: (1) Adopt a rule establishing the process by which lead agencies evaluate environmental impacts of greenhouse gas emissions when conducting environmental review of project and nonproject actions under the state environmental policy act; and (2) Before adopting the rules, engage in government-to-government consultation with Indian tribes.				

	Greenhouse gas/fossil fuels	H Env & Energy	Pollet	Monitoring	Neutral
Incorporating comprehensive measurements of greenhouse gas emissions from certain fossil fuels into state environmental laws.					
<i>Summary:</i> Requires the department of ecology, in consultation with the utilities and transportation commission, the chair of the energy facility site evaluation council, the department of natural resources, and the department of commerce, to adopt a rule to establish an upstream emissions rate that incorporates production, gathering, processing, transmission, storage, and distribution emissions that occur before the end use of natural gas or final point of commerce for the natural gas in the state. Requires the energy facility site evaluation council, the department of ecology, and an air pollution control agency to: (1) Apply a natural gas upstream emissions rate and global warming potential consistent with the adopted rule mentioned above; and (2) Require a carbon dioxide mitigation plan to provide mitigation based upon the carbon dioxide equivalents associated with both the end use of the natural gas and the production, gathering, processing, transmission, storage, and distribution of natural gas consistent with the adopted rule. Requires the utilities and transportation commission, gas companies, and electrical companies to use a natural gas upstream emissions rate and global warming potential consistent with the adopted rule. Requires the study of environmental impact information for a proposed potential site to evaluate greenhouse gas emissions consistent with the adopted rule.					
<u>HB 1597</u> (Dead)	Utility rate making/property	H Rules R	Fitzgibbon	Medium	Support
Clarifying the valuation and determination of used and useful property for rate making purposes.					
<u>HB 1625</u> (SB 5816)	<i>Summary:</i> Authorizes the utilities and transportation commission, in determining the fair value for rate-making purposes of the property of a public service company, to include in the valuation, consideration of the property of the public service company acquired or constructed by or during the rate effective period to the extent that the commission finds that the inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.				
<u>SHB 1642</u>	On-bill repayment programs	H Rules R	Doglio	Monitoring	Neutral
Allowing the energy savings associated with on-bill repayment programs to count toward a qualifying utility's energy conservation targets under the energy independence act.					
<i>Summary:</i>					
	Electric transportation	H Env & Energy	Slatter	Monitoring	Neutral
Advancing electric transportation.					
<u>HB 1664</u> (Dead) (SSB 5336)	<i>Summary:</i> Provides a sales and use tax exemption on electric vehicles. Requires the department of ecology to adopt the zero emission vehicle program regulations contained in Title 13, section 1962, 1962.1, and 1962.2 of the California Code of Regulations. Declares an intent to provide clear authority for utilities to engage in and promote the build out of electric vehicle infrastructure. Requires utilities that are traditionally responsible for providing electric service to customers and for understanding and engineering the electrical grid for safety and reliability to be engaged in the electrification of the transportation system. Authorizes certain cities or towns that are engaged in the generation, sale, or distribution of energy to, for its customers: (1) Assist in financing materials and equipment for the electrification of transportation; and (2) Offer programs, services, or investments in the electrification of transportation in a way that benefits ratepayers. Permits an electric utility to submit an electrification of transportation plan, to the utilities and transportation commission, that deploys electric vehicle supply equipment or provides other electric transportation programs, services, or incentives to support electrification of transportation. Creates the electric vehicle account.				

	Electrical net metering	H Env & Energy	Mead	Monitoring	Neutral
Concerning net metering.					
HB 1862 (Dead) (2SSB 5223)	<i>Summary:</i> Modifies certain net metering of electricity provisions regarding the cumulative generating capacity available; unused kilowatt-hour credits used to assist qualified low-income residential customers; and kilowatt-hours of electricity consumed for the most recent twelve-month period required on customer billing statements. Requires the state building code council, in consultation with the department of commerce and local governments, to conduct a study of the state building code and adopt changes necessary to encourage greater use of renewable energy systems. Requires the department of commerce to convene a work group to identify issues and laws associated with the future of net metering. Provides a June 30, 2021, expiration date for the work group.				
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2SHB 2117 (SB 5973)	State tax structure	H Rules R	Frame	Monitoring	Neutral
Providing a pathway to modernize and rebalance the Washington state tax structure so that it is equitable, adequate, stable, and transparent for the people of Washington state.					
<i>Summary:</i>					
<hr/>					
HJM 4000 (SJM 8005)	Biochar	H 2nd Reading	Shea	Monitoring	Neutral
Supporting the continued research, development, production, and application of biochar from our forests and agricultural lands.					
<i>Summary:</i> Supports the continued research, development, production, and application of biochar from our forests and agricultural lands.					
<hr/>					
SB 5108 (Dead) (HB 1070)	Natural gas tax treatment	S Environment, E	King	Monitoring	Neutral
Concerning the tax treatment of renewable natural gas.					
<i>Summary:</i> Provides a public utility tax exemption on the sale by a gas distribution business of renewable natural gas. States that the sale of natural gas, including compressed natural gas and liquefied natural gas used or sold to manufacture transportation fuel, and renewable natural gas by a gas distribution business, are not exempt from business and occupation taxes under certain circumstances.					
<hr/>					
E2SSB 5116 (2SHB 1211)	Clean energy	S Passed 3rd	Carlyle	High	Concerns
Supporting Washington's clean energy economy and transitioning to a clean, affordable, and reliable energy future.					
<i>Summary:</i>					
<hr/>					
	Self-generated electricity	S 2nd Reading	Palumbo	Monitoring	Neutral
Concerning the right to consume self-generated electricity.					
SB 5118	<i>Summary:</i> Prohibits an electric utility from establishing compensation arrangements or interconnection requirements, other than those permitted in chapter 80.60 RCW (net metering of electricity), for a customer-generator that would have the effect of limiting the ability of a customer-generator to generate or store electricity for consumption on its premises.				

	Revenue	S Ways & Means	Rolfes	Monitoring	Concerns
Increasing revenues for the support of state government.					
<u>SB 5129</u> (HB 1343)	<i>Summary:</i> Imposes a tax on individuals for the privilege of selling or exchanging long-term capital assets or receiving Washington capital gains. Allows a business and occupation tax deduction against a person's gross income of the business to the extent necessary to avoid taxing the same amounts under chapter 82.04 RCW and section 102 of this act. Authorizes the department of revenue to enter into reciprocal tax collection agreements with the taxing officials of any other state imposing a specified tax. Increases the business and occupation tax rate on certain services.				
<hr/>					
<u>SB 5134</u> (HB 1102)	Capital budget 2019-2021 Concerning the capital budget. <i>Summary:</i> Funds capital projects.	S Ways & Means	Frockt	Monitoring	Neutral
<hr/>					
<u>SB 5145</u>	Hydraulic fracturing Concerning the use of hydraulic fracturing in the exploration for and production of oil and natural gas. <i>Summary:</i> Prohibits the use of hydraulic fracturing in the exploration for and production of oil and natural gas.	H RDev, Ag&NR	Salomon	Monitoring	Neutral
<hr/>					
<u>SB 5153</u> (HB 1109)	Operating budget 2019-2021 Making 2019-2021 biennium operating appropriations. <i>Summary:</i> Makes 2019-2021 biennium operating appropriations.	S Ways & Means	Rolfes	High	Neutral
<hr/>					
<u>SB 5154</u> (HB 1108)	Supp. operating budget 17-19 Making 2017-2019 biennium second supplemental operating appropriations. <i>Summary:</i> Makes 2017-2019 biennium second supplemental operating appropriations.	S Ways & Means	Rolfes	Medium	Neutral
<hr/>					
<u>SB 5191</u> (Dead) (SHB 1222)	PUD contracting Concerning public utility districts' contracts for work or materials. <i>Summary:</i> Addresses a public utility district's contracts for work or materials.	S Local Governmen	Takko	Monitoring	Neutral
<hr/>					
<u>SB 5214</u> (HB 1160)	Transportation budget 19-21 Making transportation appropriations for the 2019-2021 fiscal biennium. <i>Summary:</i> Makes transportation appropriations for the 2019-2021 fiscal biennium.	S Transportation	Hobbs	Monitoring	Neutral
<hr/>					
	Electrical net metering	S 2nd Reading	Palumbo	Monitoring	Neutral

2SSB 5223 (HB 1862)	Concerning net metering.				
<i>Summary:</i>					
2SSB 5293 (2SHB 1257)	Energy efficiency Concerning energy efficiency.	S Rules 2	Carlyle	Monitoring	Concerns
<i>Summary:</i>					
SB 5329 (SHB 1332)	Energy site eval. council Concerning updating and streamlining energy facility site evaluation council operations.	S 2nd Reading	Nguyen	Monitoring	Neutral
<i>Summary:</i> Streamlines and updates the operations of the energy facility site evaluation council.					
SSB 5336 (HB 1664)	Electric transportation Advancing electric transportation.	S Transportation	Palumbo	Medium	Concerns
<i>Summary:</i>					
SB 5347 (Dead)	Electric utilities/climate Concerning claims about climate change made by electric utilities.	S Environment, E	Ericksen	Monitoring	Neutral
<i>Summary:</i> Prohibits an electric utility from advertising or offering a benefit, program, or service in terms indicating that the benefit, program, or service will slow or stop, or in any similar way affect, climate change.					
SB 5561 (Dead) (HB 1549)	Greenhouse emissions eval. Directing the department of ecology to adopt a rule governing the evaluation of greenhouse gas emissions under chapter 43.21C RCW.	S Environment, E	Takko	Monitoring	Neutral
<i>Summary:</i> Requires the department of ecology to: (1) Adopt a rule establishing the process by which lead agencies evaluate environmental impacts of greenhouse gas emissions when conducting environmental review of project and nonproject actions under the state environmental policy act; and (2) Before adopting the rules, engage in government-to-government consultation with Indian tribes.					
SSB 5588	Hydrogen production & sale Authorizing the production, distribution, and sale of renewable hydrogen.	H Env & Energy	Hawkins	Monitoring	Neutral
<i>Summary:</i>					
SB 5629 (Dead)	Small modular reactors Promoting small modular reactors in Washington.	S Environment, E	Brown	Monitoring	Neutral

Summary: Retains and/or increases the number of jobs in the small modular reactor industry. Encourages eligible investment projects that use or produce small modular reactors or other green technologies. Provides a business and occupation tax exemption on the manufacture or sale at wholesale or retail of small modular reactors.

	Solid waste/renewable energy	S Environment, E	Fortunato	Monitoring	Neutral
SB 5747 (Dead)	Studying the use of solid waste to produce renewable energy.				
	<i>Summary:</i> Declares an intent to: (1) Support the burning of solid waste to produce renewable energy; and (2) Appropriate sufficient money to carry out the purposes of this act. Requires the department of ecology and the utilities and transportation commission to submit a report to the legislature examining opportunities, and making recommendations, for expanding the use of waste-to-energy plants.				
	Ag., food, nat. resource ed.	S EL/K-12	Warnick	Monitoring	Neutral
SB 5804 (Dead) (HB 1863)	Concerning agriculture, food, and natural resource education.				
	<i>Summary:</i> Establishes a career-connected learning opportunity in the agriculture, food, and natural resource career cluster area as a career and technical education program in the office of the superintendent of public instruction.				
	Utility rate making/property	S Rules 2	Carlyle	Medium	Support
	Clarifying the valuation and determination of used and useful property for rate making purposes.				
SB 5816 (HB 1625)	<i>Summary:</i> Authorizes the utilities and transportation commission, in determining the fair value for rate-making purposes of the property of a public service company, to include in the valuation, consideration of the property of the public service company acquired or constructed by or during the rate effective period to the extent that the commission finds that the inclusion is in the public interest and will yield fair, just, reasonable, and sufficient rates.				
	State budget outlook	S Rules 2	Rolfes	Monitoring	Neutral
SSB 5963	Requiring the state budget outlook to include an inflationary increase to the cost of employee and provider salaries, wages, and rates.				
	<i>Summary:</i>				
	Transportation funding	S Transportation	Hobbs	High	Oppose
SB 5971	Concerning transportation funding.				
	<i>Summary:</i>				
	Additive trans funding	S Transportation	Hobbs	Monitoring	Neutral
SB 5972	Concerning additive transportation funding and appropriations.				
	<i>Summary:</i>				
	State tax structure	S Ways & Means	Wellman	Monitoring	Neutral

SB 5973 Providing a pathway to modernize and rebalance the Washington state tax structure so that it is equitable, adequate, stable, and transparent for the people of Washington state.
**(2SHB
2117)**

Summary:

Biochar	H RDev, Ag&NR	Short	Monitoring	Neutral
SJM 8005 (HJM 4000)	Supporting the continued research, development, production, and application of biochar from our forests and agricultural lands.			

Summary: Supports the continued research, development, production, and application of biochar from our forests and agricultural lands.

DAVID DANNER	S Confirmed	Monitoring	Neutral
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SGA 9253

Summary: DAVID DANNER, reappointed January 02, 2019, for a term ending January 01, 2025, as Chair of the Utilities and Transportation Commission.

**AWEC MEETING
AVISTA UPDATE
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MARCH 6, 2019**

Avista/Hydro One Merger Case (WUTC Docket U-170970)

- On December 5, 2018, the Washington Utilities and Transportation Commission (“WUTC”) issued an order rejecting Hydro One’s proposed acquisition of Avista. Subsequently, on January 23, 2019, Avista and Hydro One announced that they would terminate the proposed merger. Surprisingly, all parties had come to support the proposed merger, but the WUTC rejected it anyway. The WUTC found that the proposed merger would not deliver net benefits to ratepayers, as required by state law.
- The WUTC cited potential interference from the Province of Ontario (Hydro One’s largest shareholder) in Avista’s affairs as the chief reason for its rejection of the proposed merger. These concerns arose after Doug Ford, Ontario’s premier, ousted the entire Hydro One board and CEO. Despite this event, Hydro One continued to argue that Ontario did not control Hydro One and did not have the authority to influence the actions at Hydro One. The WUTC appears to have interpreted this as untruthfulness on the part of Hydro One’s executives, as the final order is not kind to them. Hydro One’s inability or refusal to level with the WUTC on this issue appears to have materially contributed to the WUTC’s decision to reject the merger.

Power Cost Workshops

- As an outgrowth of Avista’s most recent general rate case, stakeholders have been meeting to review Avista’s modeling of its forecasted power costs, which in recent years have significantly over-forecast power costs. Our previous updates have provided additional background on these meetings and their origin.
- Two meetings have occurred since our last update. These meetings have resulted in Avista agreeing to change its power cost model from the AURORA model with numerous modifications and out-of-model adjustments that it currently uses to simply using the out-of-the-box AURORA model. This will simplify the audit of Avista’s power costs in future rate cases, though whether it more accurately matches forecasts and actuals remains to be seen.
- While appearing to be more comfortable with this simplified approach, WUTC Staff continues to have questions and concerns about Avista’s power cost modeling, so a full resolution of the issues has not yet occurred. Nevertheless, we expect Avista to file a rate case on or around April 1, 2019 and to use its new power cost methodology in that case.



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AWEC MEMBER MEETING AGENDA

Portland Sheraton Airport Hotel

Room: Cascade ABC

March 6, 2019

Call-in number: 866- 863-8866

Passcode: 2309215

8:00-9:00 am *Breakfast*

Electric Section

9:00 am *Call to Order and Antitrust Statement – John Carr, Executive Director*

1. Brief introduction provided by each AWEC member in attendance and on conference call line

9:05-9:10 am *Administrative – John Carr*

- June 5 AWEC Gas Member Meeting
- June 5/6, AWEC Joint Electricity/Gas Conference with NWGA – Skamania Lodge
- June 7, AWEC Electric Member Meeting – Skamania Lodge, Keynote speaker – TBD
- November 12, AWEC Annual Member Meeting, Seattle Keynote speaker – TBD

2. General organizational update
 - Finances
 - New member: Teck Washington

9:10 - 10:00 am *Legislative Update*

1. Washington – Tim Boyd
2. Oregon – JL Wilson, Public Affairs Counsel

10:00 – 10:20 *GHG Legislation's Impacts on Members*

1. Jeff Burks, Energy Strategies

10:20 – 10:30 am *Break*

10:30 - 11:55 am *Regulatory Updates – Josh Weber and Brad Mullins*

BONNEVILLE POWER ADMINISTRATION

1. TC-20 Settlement
2. BP-20 Transmission and Power Rate Proceeding

3. Grid Modernization and Markets Initiative

PORLAND GENERAL ELECTRIC COMPANY

1. UE 335 – 2018 General Rate Case (“GRC”)
2. UM 1953 – Green Tariff
3. ADV 919 – New Load Direct Access Tariff

PUGET SOUND ENERGY

1. U-180680 – Sale of Macquarie Interest
2. UE-180899/UG-180900 – Expedited Rate Filing

GENERIC PROCEEDINGS

Oregon

1. AR 610, 616 – RPS Rulemakings
2. UM 1909 – Request for Ruling on Costs that Can be Deferred for Later Recovery in Rates
3. UM 2000 – PURPA Investigation

Washington

1. U-161024 – IRP Rule and Process Changes
2. UE-170002/UG-170003 – Cost of Service Collaborative
3. U-180907 – Alternative Ratemaking Process

PACIFICORP

Oregon

1. Inter-Jurisdictional Cost Allocation
 - o UM 1824 – Oregon-specific Investigation
 - o Multi-State Process (“MSP”) Workgroup
2. UM 1968 – Depreciation Study
3. LC 70 – 2019 IRP
4. UM 1985 – Amortization of Federal Tax Savings

Washington

1. UE-180778 – Depreciation Study
2. UE-171219 – Amortization of Federal Tax Savings

AVISTA

1. UE-170970 – Avista/Hydro One Merger
2. UE-180167/UG-180168 – Depreciation Study

Electric and Natural Gas Lunch and Keynote Speaker

12:00 – 12:30 pm Luncheon

12:30 -1:00 pm Guest Speaker – WUTC Chairman David Danner

Natural Gas Section

1:00 – 1:05 pm Administrative – Ed Finklea, Director of Natural Gas

1:05 – 1:15 pm Enbridge Pipeline Update

1:15 – 2:00 pm Regulatory and Legislative Updates – Chad Stokes and Tommy Brooks

WASHINGTON

1. Puget Sound Energy – Tariff Issue with Curtailments and Entitlements
2. NW Natural Rate Case (UG-181053)
3. Cost of Service Collaborative (UG-170003)
4. Hedging Workshop (UG-180734, UG-180825 and UG-180795)

OREGON

1. NW Natural Rate Case, Phase II (UG-344)
2. Investigation to defer Capital Costs (UM-1909)
3. Cascade Rate Case (UG-347)
4. Avista Tax Cuts and Jobs Act (UM-1918)
5. Cascade Tax Cuts and Jobs Act (UM-1922)

OREGON/WASHINGTON

1. Hydro One Purchase of Avista Rejected (UM 1897) and investigation into Termination Fee (UM 1996).

2:30 pm Adjourn – John Carr

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MEMORANDUM

Attorney/Client Privilege

March 6, 2019

TO: John Carr; BPA Members

FROM: Josh Weber

RE: March BPA Update

1. BP-20 Proceeding

On Monday, January 14, 2019, the Bonneville Power Administration (“BPA”) released its Initial Proposal in the BP-20 rate proceeding. BPA has proposed a 2.9% average power rate increase, which is substantially lower than the approximately 5% increase that was initially contemplated by BPA Staff. Further, since the rate increase is distributed more towards billing elements that apply to requirements customers, many slice/block customers could experience a rate reduction. This is a favorable proposal for our members.

On February 19, 2019, two days before intervenor testimony was due, BPA announced on a Financial Reserves conference call that it has discovered persistent errors in its accounting that reach back at least as far as 2004. These errors have led to an apparent misallocation of reserves between the Power and Transmission business lines. BPA believes that Power reserves have been understated by as much as \$200 million, not including interest. It is unclear how this will affect power rates, but it would seem that at the very least, application of the Financial Reserves surcharge to power customers should be reevaluated. The Financial Reserves surcharge represents \$20 million of BPA’s current rate structure and is currently projected to increase to nearly \$30 million in the BP-20 rate period.

While it is highly disturbing that an accounting error of this magnitude has persisted for at least 15 years, the Administrator and senior management at BPA have stated that they are determined to treat this issue in a transparent and timely manner. A customer meeting is scheduled for March 11, 2019. We expect that the parties will have the opportunity to fully explore potential ramifications for BPA’s power and transmission rates during this

Memorandum

March 6, 2019

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process. However, it is still unclear how this process will interface with the ongoing BP-20 forum, or whether it will be handled entirely in a separate proceeding.

AWEC filed testimony on February 21, 2019, focusing on other potential opportunities for cost savings identified in the Initial Proposal, which include: 1) termination of the Foote Creek 1 PPA; 2) an alternative approach to BPA's minimum required net revenue practices; 3) potential adjustments to BPA's surplus firm capacity forecasts; 4) investigation of BPA's proposed calculation of net secondary revenues; and 5) potential ways for incremental revenues to be returned to BPA customers in the event BPA joins the western energy imbalance market.

With respect to transmission rates, AWEC has supported the BP-20 Partial Rates Settlement Agreement, which limits BPA's transmission rate increases to 4.2% for point-to-point transmission and 2.5% for network transmission, or approximately 3.6% overall – a significant reduction from the 10%-11% overall increase BPA had planned to propose.

2. BP-20 Settlement Proposal

On approximately January 31, 2019, the Western Public Agencies Group (“WPAG”) sent a letter to BPA proposing that the parties to BP-20 meet to discuss settlement of the power rates issues, with a goal achieving a zero-percent overall rate increase. BPA responded, noting that given the timing of the case, the rates issues raised by WPAG were likely best addressed in the rate case process. However, following a letter of support from the Eugene Water and Electric Board, BPA invited rate case participants to meet on February 28 to discuss possible settlement.

During this meeting BPA offered to accept some more aggressive marketing of excess firm energy (which AWEC, WPAG, and others had suggested in testimony) to settle the case, if the parties would agree to that the Financial Reserves surcharge would operate separately, once uncertainty regarding financial reserves is straightened out. The reduction floated by BPA would reduce the rate increase by about $\frac{1}{2}$ of a percent but would not result in a zero-percent increase, even absent a Financial Reserves surcharge.

Generally, this proposal did not lead to a great deal of enthusiasm among Public Power representatives because it is unclear whether this proposed settlement would be better than a litigated outcome, particularly as markets continue to move, which will affect BPA's final modeling. Additionally, until it is clear how BPA intends to handle any questions regarding the misallocation of financial reserves, even parties who proposed settlement are now wary of settling the rate case.

AWEC indicated that it is amenable to considering BPA's proposal, though but it is necessary to first get a better feel for a likely litigated outcome, and to attend the upcoming March 11 meeting with BPA finance before a final recommendation can be made.

3. TC-20 Terms and Conditions Settlement

While a single joint party objected to certain provisions of the BP-20 Partial Rates Settlement and the TC-20 Settlement Agreement, BPA issued a recommendation to the Administrator to approve the stipulation, which includes the BP-20 Partial Rates Settlement. The Hearing Officer certified the TC-20 record for the Administrator's final decision on February 20, 2019. Concurrent with this writing, the Administrator released a record of decision ("ROD") on March 1, 2019, adopting the settlement. While it appears that the BP-20 rate settlement was not officially included in this ROD because it is not within the scope of BP-20, we expect that it will be adopted in BP-20, because its adoption is a material term of the TC-20 settlement. We will analyze this ROD and present further information at the March 6 meeting.

4. Grid Modernization

BPA continues to meet with customers regarding its Grid Modernization initiative. Central to this effort is the proposal that the BPA balancing authority area consider joining the CAISO energy imbalance market ("EIM"). BPA is discussing operational aspects of this proposal, and will present cost/benefits analyses as well, as it determines whether to move forward. Notably, BPA is studying what changes to the EIM market would be necessary to ensure that hydro resources with their unique characteristics would be dispatched wisely and economically.

AWEC MEETING
GENERIC PROCEEDINGS UPDATE
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Oregon Proceedings

Investigation into the Legal Authority to Defer Capital Costs (UM 1909)

- As discussed in our last Member Update, on October 29, 2018, the Oregon Public Utilities Commission (“OPUC” or “Commission”) issued a final order finding that it lacks the legal authority to authorize deferral of either the return on, or the return of, capital investments. As a reminder, this docket was originally opened because Commission Staff was of the opinion that the Commission could authorize deferral of the return of capital investments, but not the return on those investments.
- Since our last Member Update, the utilities filed a motion for reconsideration, which the OPUC subsequently denied on February 19, 2019. The OPUC determined that its earlier analysis was correct, but it also ordered a new investigation to “address options for the recovery of capital costs consistent with our legal authority.” AWEC will participate in this proceeding. We believe it is likely that the utilities will either seek judicial review of this decision or a legislative fix, or both.

Renewable Portfolio Standard Rulemaking (OPUC Dockets AR 610, AR 616, and AR 617)

- The OPUC has been engaged in a series of rulemakings to update its rules governing renewable portfolio standard (“RPS”) compliance following passage of the 50% RPS in 2016. This has been a very slow-moving rulemaking which has not been assisted by the fact that the staff lead on the rulemaking has changed at least twice with frequent turnover at the Commission.
- Nevertheless, this rulemaking has the potential to have significant consequences for the cost impacts of the RPS. Most notably, the RPS contains a cost cap whereby a utility is relieved of its compliance obligation if the incremental cost of compliance exceeds four percent. To date, this cost cap has been implemented by reviewing the utilities’ historical cost of compliance through the retirement of RECs, rather than their projected compliance cost. The consequence of this is that customers are not protected by the cost cap because it is only reviewed after the costs are incurred. AWEC first identified this

problem in PGE’s 2015 RPS compliance report, and has been raising this issue consistently ever since.

- It appears that the utilities and Staff agree with AWEC on this point, but the slow-moving process of this rulemaking has thus far prevented this necessary change. As the utilities’ RPS compliance obligations increase, this issue will become more pressing, so AWEC will continue to push for its implementation.

Investigation into PURPA Implementation (OPUC Dockets UM 2000 and UM 2001)

- On February 14, 2019, the OPUC adopted Commission Staff’s recommendation to open yet another broad investigation into implementation of the Public Utility Regulatory Policies Act (“PURPA”). The OPUC has been consistently investigating PURPA for well over a decade. This investigation was opened primarily due to PGE’s concerns over the past two years that it is being required to pay more than avoided cost for QF power and is unable to revise its rates to align them with the avoided cost. This has led to a swarm of QFs seeking contracts with PGE, and the utility has warned that these QFs could result in millions in increased costs to customers. AWEC has generally supported PGE’s efforts to reduce its avoided cost rates and has intervened in the proceeding. No schedule has been adopted.

Washington Proceedings

Rulemaking on Integrated Resource Plans (“IRP”) (WUTC Docket U-161024)

- The Washington Utilities and Transportation Commission (“WUTC” or “Commission”) is revisiting its rulemaking regarding the State’s integrated resource planning (“IRP”) process. Recent Staff and utility proposals have discussed the creation of a competitive bidding process similar to Oregon’s.
- AWEC filed its most recent comments on January 31, 2019. As with previous AWEC comments, AWEC recommended against creating a detailed competitive bidding process, arguing that these procedures rarely deliver any value for customers despite significant costs, which are ultimately borne by ratepayers.
- While AWEC opposes Staff’s proposed rules, AWEC has also provided detailed comments to protect ratepayers to the maximum extent possible in case the WUTC chooses to adopt a new competitive bidding process. In its most recent comments, AWEC focused on provisions regarding the use of an independent evaluator. Generally, AWEC argued that competitive bidding processes should not include an independent evaluator unless the process allows for a utility ownership option.

- This rulemaking also includes discussion of a number of other IRP-related issues, including distribution system planning and PURPA. The distribution planning rules have stalled for now, but the Commission recently released its updated PURPA rules on February 22, 2019. These rules are set for an adoption hearing on April 30, 2019. Comments are due on April 1st. The rules make some substantial changes to the WUTC's existing PURPA policy, most notably by providing standard contracts for qualifying facilities ("QFs") with nameplate capacities up to 5 MW, and standard pricing for up to 15 years, and at least 12 years. Currently, standard contracts are only available to QFs up to 1 MW, and the rules do not specify the length of time for standard pricing. The existing rules have severely restricted QF development in Washington; the new rules may create a more favorable environment for these projects. AWEC continues to review the rules and will determine whether to comment.

Cost of Service Collaborative (WUTC Docket UE-170002)

- The WUTC opened an investigation into potential changes to its methodology for calculating cost of service for the State's utilities. We have provided additional background on this process in prior updates. Because changes in cost of service methodologies can have significant impacts on customer rates, AWEC is actively participating in this docket to try to influence the WUTC to adopt methodologies that are fair to large customers.
- Workshops were held to discuss electric- and gas-specific issues on February 21 and 22, 2019, respectively. At the electric workshop, Staff provided high-level straw proposals for how to allocate the various costs of utility service and requested feedback. While consensus was reached on a few categories of costs, there was general agreement that the discussion needed to get much more detailed to move the discussion along on more controversial cost categories like generation and transmission.

Alternative Ratemaking Workshop (WUTC Docket U-180907)

- On December 10, 2018, the WUTC held a workshop to hold a preliminary discussion on alternative forms of ratemaking. In essence, the WUTC was interested in hearing from stakeholders whether, given advances in technology and changes to the utility industry, the long-standing ratemaking construct in which utilities earn a return on their investments following a prudence review remains the most effective form of regulation. AWEC attended the workshop, along with all of the utilities, Public Counsel, the Energy Project, NIPPC, and others.
- At the workshop, the WUTC determined that the first step in this process should be to have stakeholders provide problem statements discussing their concerns with utility regulation and the principles that should guide it. AWEC's comments focused on the importance of establishing a clearly defined scope and goal for the docket to ensure that all stakeholders are working from a common framework. AWEC strongly recommended that, regardless of whether it regulates under a traditional or alternative form of regulation, the WUTC continue to be an economic regulator that is dedicated to ensuring fair, just, reasonable, and sufficient rates for the specific services a utility provides.

Regional Process

Statewide Energy Efficiency Advisory Group (“SWAG”)

- AWEC continues to push back against WUTC Staff’s efforts to expand the scope of the SWAG far beyond its original purpose of determining how to account for Northwest Energy Efficiency Alliance savings in utilities’ energy efficiency targets. Since our last update, the SWAG has discussed potential “incentive mechanisms” to encourage utilities to adopt new conservation measures. AWEC’s position is that because Washington’s utilities are already required to acquire all cost-effective conservation, no “incentive” is needed to encourage further conservation measures.
- While it is not clear what the end result of the SWAG’s process will be, AWEC remains engaged because Staff’s various proposals could significantly increase utility conservation costs, and thus rates for AWEC members.

Pierce County Superior Court Case No. 17-2-08907-4 – TPU/Click! Litigation

- AWEC members with facilities serviced by Tacoma Public Utilities (“TPU”) are presently participating in a joint litigation effort to stop TPU’s long-running subsidization of its public broadband service, which operates under the name “Click!” Specifically, through voluntary, individual member funding (i.e., not via general AWEC membership contributions), AWEC is one of several named parties in a 2017 suit against the City of Tacoma (“City”) in Pierce County Superior Court (the “Superior Court”). Our previous updates have provided additional background on this lawsuit.
- After the Superior Court ruled in the plaintiffs’ favor in March 2018, the City appealed to the Washington Court of Appeals. After being granted three separate extensions, the City finally filed its opening brief on January 4, 2019. AWEC and its litigation partners will file a reply brief on March 6, 2019. There is no timeline for the Court of Appeals to issue a decision.

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**Revised Depreciation Rates (OPUC Docket UM 1968; WUTC
Docket UE-180778)**

- As discussed in our last Member Update, PacifiCorp has filed an application to implement revised depreciation rates for each of the states it serves, including Washington and Oregon. The depreciation study would result in significant rate increases (between 5% and 10%) if implemented as filed.
- In early February 2019, PacifiCorp informed stakeholders that intended to seek a stay of its depreciation proceedings in each of its states to account for preliminary results from its 2019 integrated resource plan. Those results show that retiring a number of coal units earlier than anticipated would be economic for customers. These results need to be refined to account for any reliability impacts that would result from closing these coal plants, but if the results hold, then that could provide a basis for further accelerating the depreciable lives of these plants. Given the uncertainty surrounding the remaining lives of the Company's coal fleet, no party, including AWEC, objected to delaying the depreciation study until release of the final study results. Both the Oregon Public Utilities Commission ("OPUC") and Washington Utilities and Transportation Commission ("WUTC") have approved the requests to hold their respective proceedings in abeyance.

Multi-State Process ("MSP") Workgroup Meetings

- Since the November member meeting, two MSP workgroup meetings have been held, one on December 5th and 6th in Portland, and another on January 31st and February 1st in Denver. The Commissioner Forum was also held on February 1st, in which commissioners from each of PacifiCorp's states attend to receive an update on the meetings.
- For much of 2018, little progress was made, primarily due to the states' unwillingness to accept PacifiCorp's CLEAR proposal, and PacifiCorp's unwillingness to accept any proposed alternatives. Prior to the December meeting, however, the Oregon parties (Oregon Staff, AWEC, and CUB) held a meeting to attempt to identify a consensus position on the Company's proposal that they could present to the workgroup. That meeting led to an alternative concept to PacifiCorp's CLEAR plan.
- As a reminder, the CLEAR plan would assign each coal and gas unit in PacifiCorp's fleet to individual states. Because the cost of each unit differs, PacifiCorp would also create

“transition adjustments” in which states receiving lower cost units would pay states receiving higher cost units in order to bring each state back to the revenue requirement they would have paid absent this realignment. This presented a host of problems. First, it required states to accept all risk in the near-term of units they were receiving without sufficient knowledge of their viability. Second, the transition adjustments were calculated by forecasting the states’ revenue requirement under the current 2017 protocol through 2030, and then discounting it back to present value. Not only were the transition adjustment payments almost guaranteed to be wrong, therefore, they also brought states back to revenue requirement under a cost allocation protocol that not all of them accepted.

- The Oregon concept solves for each of these problems. Rather than realigning all of the Company’s coal units in the near term, any coal units that are forecasted to fully depreciate in all states before 2030 would continue to be treated as system resources. If they retire at the end of their depreciable lives, then all states would equitably share in the decommissioning and remediation costs. Any coal units that are scheduled to depreciate in Oregon before 2030, but in other states after 2030 would be treated as system resources until they are fully depreciated in Oregon. At that point, they would automatically transfer, without any transfer payments, to any other state that wishes to continue operating them. Oregon would pay no further costs, and receive no further benefits from these resources. In exchange, once the units did retire, Oregon would also have no additional decommissioning and remediation cost responsibility. All existing non-coal resources would remain system resources.
- The Oregon concept reduces states’ risk by avoiding a near-term wholesale realignment of resources. It also avoids the need for a complicated and speculative transition adjustment by ensuring that any transfer of coal resources will only occur after the state from which the resource is transferred has already paid its fair share for that resource. The Oregon parties proposed this concept at the December meetings, and much of the January/February meetings was dedicated to discussing it. It appears that PacifiCorp and the other states are open to this concept, which represents the most progress the workgroup has made in at least a year. Nevertheless, much remains to be done, and it is questionable whether full resolution is possible by the end of 2019. Additional meetings are scheduled for March 6th and 7th in Salt Lake City, April 16th and 17th in Boise, and May 22nd and 23rd in Portland.

Oregon-Specific Interstate Cost Allocation Investigation (OPUC Docket No. UM 1824)

- This docket was originally opened nearly two years ago to consider Oregon-specific cost allocation issues outside of the broader MSP process. We have provided background on the docket in prior updates.
- OPUC Staff gave a presentation to the OPUC at its January 15, 2019 Public Meeting. The presentation amounted to a briefing for the Commissioners as to potential Oregon-specific cost allocation methods, but it did not contain any recommendations. Staff stated that it intends to conduct a “thorough quantitative evaluation to determine the merits” of various

cost allocation methods, but provided no information about when (or how) it intends to accomplish this. No additional substance has occurred or is projected to occur at this time.

2019 Renewable Adjustment Clause (OPUC Docket No. UE 352)

- On December 28, 2018, PacifiCorp filed an application to update its renewable adjustment clause (“RAC”), which allows it to include renewable resources used to meet Oregon’s renewable portfolio standard in rates as soon as new resources are online, instead of waiting until its next general rate case.
- PacifiCorp’s RAC filing was precipitated by its decision to “repower” nearly 1000 MW of company-owned wind capacity by upgrading turbine blades and other components. These upgrades will come online in two batches, with cost recovery proposed to begin on October 1, 2019 and December 1, 2019. Cumulatively, these projects would add \$36.8 million to Oregon rates. PacifiCorp has stated that the average rate impact would be 2.8%, with customers on schedules 47 and 48 seeing increases of 3.6%. The impact of this should be offset by reduced power costs associated with higher capacity factors for the repowered resources, but whether PacifiCorp or customers take the risk that assumed capacity factors will be realized will be an issue in the case.
- AWEC is in the process of conducting discovery and identifying issues for its opening testimony, which is due on April 2, 2019.

New Load Direct Access Program (OPUC Dockets ADV 900 and UM 1989)

- As discussed in previous Member Updates, the OPUC recently adopted rules that allow new loads larger than 10 average MW coming to PGE’s or PacifiCorp’s service territories to go straight to direct access while paying a reduced transition charge. On December 14, 2018, PacifiCorp filed a new rate schedule implementing this new load direct access (“NLDA”) program. The tariff was generally reflective of the new rules. Stakeholders held one workshop in which parties recommended a few minor revisions, which PacifiCorp accepted. The new tariffs were approved at the OPUC’s February 26, 2019 open meeting.
- The OPUC’s NLDA rules create a soft cap on the program at 6% of a utility’s 2017 weather normalized annual load. Accordingly, PacifiCorp’s NLDA program is limited to 89 average megawatts (“aMW”). A customer, however, may request to exceed this cap. This, in fact, occurred on the same day that PacifiCorp filed its NLDA rate schedules. Vitesse (a subsidiary of Facebook) filed an application to exceed the 89 aMW cap at a new data center in Crook County, Oregon. PacifiCorp has requested that, if the OPUC approves Vitesse’s request, it add an extra 30 aMWs beyond what is needed by Vitesse, to ensure that more than one PacifiCorp customer can participate in the NLDA program. AWEC has intervened in this proceeding and is monitoring its progress.

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2018 General Rate Case (Docket No. UE 335)

- The Oregon Public Utilities Commission (“OPUC” or “Commission”) issued a final order in PGE’s 2018 rate case on December 14, 2019 approving all of the stipulations filed in the case. The rate elements of the decision are positive. Schedules 89 and 90 received rate decreases, for the second year in a row, of approximately 2%. This decrease compares to an overall rate increase of approximately 1%. Direct access customers also realized substantial decreases to their delivery charges. In addition, through a separate settlement, PGE also agreed to pass back tax savings in 2018 it incurred from changes to the federal tax rate over the next two years, which will further reduce rates by approximately 1.5% in each of these years.
- This result for large customers incorporates a number of proposals AWEC made in testimony. This includes adjustments to capital additions, employee counts, deferred income taxes, power costs, and rate spread. In total, AWEC filed five pieces of testimony in the docket, leading to favorable settlements on all revenue requirement issues. In addition, other than direct access (discussed below) the Commission ruled against PGE, and in favor of AWEC, on the few contested issues, including allowing the Company to establish a balancing account for major storm costs.
- AWEC did not agree to settle issues related to PGE’s long-term direct access program, which allows customers to select an alternative energy supplier on a permanent basis. PGE agreed to a settlement with other parties that maintained the existing cap on the program, despite the fact that this cap excludes certain otherwise eligible customers and has never been justified. AWEC objected to this stipulation, therefore, on the grounds that it discriminated against the customers it excluded. The OPUC nevertheless approved it. In doing so, however, the Commission provided no factual basis for its decision. Accordingly, AWEC has filed for reconsideration of this decision. PGE, OPUC Staff, and Calpine Solutions all filed responses supporting the Commission’s original order. An order on AWEC’s petition is due April 15, 2019.

2018 Renewables Request for Proposals (“RFP”) (UM 1934)

- Following acknowledgment of its 2016 integrated resource plan (“IRP”), PGE issued an RFP for approximately 100 average MW (“aMW”) of new renewable resources. As discussed in previous updates, AWEC had opposed this acquisition in the IRP on the basis that PGE had no need for new renewable resources. This opposition helped to

reduce the amount the Commission acknowledged from 175 aMW to 100 aMW. AWEC also opposed the results of PGE’s RFP on the grounds that it was uncompetitive and yielded resources of questionable value to customers. Only three viable bids were identified in the RFP. One was PGE’s benchmark bid, part of which would be utility-owned. The other two were power purchase agreements with third-parties. Following announcement of the results, one PPA bid withdrew, leaving only two viable bids.

- Nevertheless, but not unexpectedly, the OPUC acknowledged PGE’s final shortlist in its 2018 renewable RFP at its December 4, 2018 open meeting. Subsequently, PGE announced on February 12, 2019 that it would move forward with a deal to develop its benchmark bid, the Wheatridge Renewable Energy Facility (“Wheatridge”). Wheatridge will be co-owned by NextEra and PGE, and includes a mix of solar, wind, and battery resources. According to PGE, the other remaining bid withdrew during the negotiation phase, meaning that PGE’s own resource was ultimately the only viable resource identified in the RFP. AWEC will fully participate in the subsequent proceeding in which PGE seeks cost recovery.

Green Tariff (Docket No. UM 1953)

- On April 13, 2018, PGE filed a proposal for a “green tariff” option for its large customers. Our previous updates have covered the details of the Company’s proposal. In short, subscribers would remain on their cost-of-service tariff, but would also be charged a separate rider covering the cost of a new renewable resource.
- Parties filed briefing in this proceeding in December 2018, and have been waiting for a Commission order ever since. The wide variety of proposals made in this case is likely contributing to the length of time it is taking the Commission to issue an order in this case, as the Commission may be taking pieces of parties’ proposals to craft its own green tariff for PGE. One of the Commissioners, Letha Tawney, has extensive experience with green tariffs through her prior job at the World Resources Institute, and is likely using that experience to influence the order.

New Load Direct Access (“NLDA”) Tariff (Docket No. ADV 919)

- As discussed in our PacifiCorp update, the OPUC has adopted rules governing an NLDA program in which new loads over 10 aMWs for which PGE and PacifiCorp have not planned, may go straight to direct access while paying a reduced transition charge. Unlike PacifiCorp’s tariff, which was relatively uncontroversial and has already been approved, PGE’s tariff filing in compliance with the NLDA rules seeks to implement two new charges that PGE claims are necessary to maintain system reliability and fairly allocate costs.
- The first charge, which PGE has called a “resource adequacy charge,” would represent the cost PGE incurs to acquire additional capacity to have in reserve in the event that

NLDA customers return to PGE's service on an emergency basis. PGE claims that, without this additional capacity, it may be unable to acquire sufficient energy to serve all of its customers, forcing it to curtail cost-of-service customers. The other charge, which PGE has called the "resource intermittency charge," is intended to compensate for real-time balancing PGE does when energy service suppliers do not accurately schedule to serve direct access loads (although this charge would only apply at this time to NLDA loads because PGE agreed to abandon this charge in the direct access settlement in the rate case). Even though PGE already collects imbalance charges through its open access transmission tariff, the Company claims that these charges only account for imbalance energy, and not the capacity associated with it. AWEC intends to oppose both charges on numerous grounds, including that they represent plant not used and useful, are not the least-cost solution to PGE's alleged problems, and represent issues PGE litigated in the NLDA rulemaking and lost.

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PSE Expedited Rate Filing (UE-180899, UG-180900)

- PSE made an “expedited rate filing” (“ERF”) on November 7, 2018. While the Washington Utilities and Transportation Commission (“WUTC” or “Commission”) has approved ERFs in the recent past, no rules or other guidance exist governing what may or may not be included, other than a long-standing rule that any rate increase to any customer class of 3% or more constitutes a general rate case; consequently, it has generally been agreed that ERFs must seek rate increases of less than 3% to provide for a more streamlined and faster approval process than occurs with a general rate case. To meet this requirement, PSE requested an overall increase to gas rates of 2.9%, while arguing that it could justify a much higher increase. Notably, however, the Company’s request masked higher rate increases to transportation customers of up to 6% by bundling its transportation rate schedules with their sales schedule counterparts (in other words, customers on Schedule 87 and 87T, for instance, were grouped together as a single customer class). PSE sought a relatively modest increase to electric customers of less than 1%.
- Parties held settlement discussions in January, which led to a full settlement on January 30, 2019. The settlement maintains existing electric rates, thereby eliminating approximately \$19 million from the Company’s request, and authorizes a 2.9% overall gas rate increase. At AWEC’s insistence, however, PSE agreed to also limit the rate increase for all transportation schedules to 2.9%. The settlement also preserved for litigation in a future rate case all remaining portions of the tax savings associated with the Tax Cuts and Jobs Act that PSE is deferring. This includes most excess deferred income tax (EDIT) savings and the “current” (i.e., non-EDIT) tax savings PSE incurred from January through April of 2018.
- On February 21, 2019, the Commission approved the settlement, but subject to a condition. The Commission found that, while continued deferral of EDIT-related tax savings was justified due to the complexity associated with calculating this savings, PSE had not justified continuing to defer the January through April 2018 current tax savings. Consequently, the Commission required PSE to amortize this savings over a 12-month period beginning May 1, 2019. This will result in an additional \$24 million in savings

passed through to electric customers over this period, and \$10.5 million for gas customers. Both represent rate decreases of over 1%.

Sale of Macquarie Interest (Docket U-180680)

- As discussed in our previous Member Update, Macquarie Infrastructure Partners, the majority shareholder in PSE's parent company, Puget Holdings, has announced that it intends to sell its 44% share of the company to a consortium of pension funds. PSE filed for approval of this sale with the WUTC on September 5, 2018. While Commission Staff recommended approval of the transaction at an open meeting on November 5, 2018, after having issued only five data requests, AWEC and others successfully influenced the Commission to open an adjudication to allow for a more comprehensive review the transaction. Our previous updates have provided additional background on this case.
- On January 15, 2019, AWEC and most other parties entered into a multiparty settlement imposing a number of conditions that will help protect ratepayers. These conditions, which include debt reporting and governance conditions, are in addition to those PSE is already subject to from the 2007 transaction when Macquarie purchased the utility.
- The only parties opposing the settlement are several labor groups who appear to be using the merger docket to collaterally attack PSE's most recent collective bargaining agreement, which is outside of the WUTC's jurisdiction. PSE successfully moved to strike most, but not all, of the labor organizations' testimony in opposition to the settlement. A hearing was held on February 15, 2019. Only the labor groups conducted cross examination, and the Commissioners asked no questions. An order on the settlement is forthcoming.

Schedule 258 Changes

- PSE has informed AWEC and its Conservation Resource Advisory Group that it intends to make several small, but beneficial, changes to Schedule 258, its self-directed energy efficiency program for large customers. In short, PSE is proposing to allow customers to use their allocated funds to pay for energy efficiency engineering studies to help identify cost-effective energy projects. PSE hopes that this change will help provide customers with more efficiency project options and encourage greater use of the Schedule 258 funds prior to the competitive phase of the program.



Oregon Weekly Report

March 18, 2019

The Oregon legislature wrapped up week 8. The legislature is two weeks away from the first chamber posting deadline, which has legislators scrambling to advance their personal bills. Many of these concepts won't advance. Public discussion around the cap-and-trade proposals have been quiet as legislators and the Governor's office continue backroom discussions and work with legal counsel to get amendments drafted. We are aware that more than 55 amendments have been drafted, but none have been made publicly available. That could change as soon as next week.

What Happened This Week at the Oregon Capitol

- **Joint Committee on Carbon Reduction:** On Monday evening, the committee held an informational meeting and invited Peter Daugherty, State Forester for the Oregon Department of Forestry, to present the Oregon Forest Ecosystem Carbon Report. Friday's meeting was cancelled as legislators await amendments.

On Friday, Representative Brock Smith briefed industry lobbyists on his plan to tax carbon and return 75 percent of the funds collected back to the payer. The plan would create a \$15 carbon tax. It was estimated that companies would receive all but \$4 of that tax back. The proposal provides a different alternative, but still has many details to be ironed out. It is not anticipated that this will be considered as a realistic alternative to HB 2020.

- **Senate Environment and Natural Resources:** This committee adopted the -5 amendments to SB 98. The bill would require the Public Utility Commission (PUC) to adopt administrative rules to encourage natural gas utilities to invest in renewable natural gas infrastructure. The PUC would need to adopt rules establishing renewable natural gas reporting requirements and processes for recovery of prudently incurred investments. The measure would allow natural gas utilities to opt-in to a renewable natural gas program. Natural gas utilities would be able to procure renewable natural gas and make capital investments in producing renewable natural gas, including biogas, hydrogen gas derived from renewable sources, or methane gas derived from biogas, waste hydrogen gas or carbon oxides, and/or waste carbon dioxide.

What's Going on This Next Week

- **Joint Committee on Carbon Reduction:** On Monday evening, the committee is scheduled to hold an informational hearing on the Natural Working Lands Incentive Programs. The Oregon

Department of Agriculture, Oregon Watershed Enhancement Board, and Oregon Department of Forestry will be invited to present testimony. No meeting has been scheduled for Friday yet, although it is rumored that the first set of amendments could be reviewed during that committee meeting if they are available.

- **Senate Environment and Natural Resources:** SB 928, legislation that establishes the new Climate Authority, was initially scheduled for a public hearing, but has been pulled from the calendar. No other bills dealing with energy have been posted in the Senate committee at this time.
- **House Energy and Environment:** The House committee has not scheduled any meetings this upcoming week on issues dealing with energy or bills that would have direct cost impacts to AWEC members.

Bills AWEC is Tracking

Alliance of Western Energy Consumers

<u>HB</u>	<u>Position</u>	<u>Priority</u>
<u>2020</u>	Oppose	1

[Bill](#)
[Info](#)

Summary: Establishes Carbon Policy Office within Oregon Department of Administrative Services and directs Director of Carbon Policy Office to adopt Oregon Climate Action Program by rule. Modifies statewide greenhouse gas emissions reduction goals. Establishes Joint Committee on Climate Action. Establishes purposes of Oregon Climate Action Program and provisions for investment of moneys received by state as proceeds from auctions conducted under program. Requires program to place cap on greenhouse gas emissions that are regulated emissions and provide market-based mechanism for covered entities to demonstrate compliance with program. Sets forth certain other requirements for program and for rules adopted by Director of Carbon Policy Office related to program. Establishes certain funds. Sets forth requirements for uses of moneys deposited in funds. Authorizes Public Utility Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers. Transfers duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to greenhouse gas reporting to Carbon Policy Office. Amends greenhouse gas reporting statute. Repeals Energy Facility Siting Council carbon dioxide emissions standards. Includes provisions for treatment of site certificate conditions affected by repeal of carbon dioxide emissions standards. Provides that provisions related to Carbon Policy Office, Oregon Climate Action Program, investment of certain moneys, Public Utility Commission, transfer of duties, and repeal of Energy Facility Siting Council carbon dioxide emissions standards become operative January 1, 2021. Provides for expedited review of certain questions on Act to Supreme Court upon petition by adversely affected party. Declares emergency, effective on passage.

3/2/19 H - Public Hearing held.
3/1/19 H - Public Hearing held.
2/25/19 H - Public Hearing held.
2/23/19 H - Public Hearing held.
2/22/19 H - Public Hearing held.
2/18/19 H - Public Hearing held.
2/15/19 H - Public Hearing held.
2/11/19 H - Informational Meeting held.
2/8/19 H - Informational Meeting held.
2/4/19 H - First reading. Referred to Speaker's desk.
2/4/19 H - Referred to Carbon Reduction.

<u>HB</u>	Position	Priority
<u>5044</u>	Oppose	1

[Bill](#)
[Info](#)

Summary: Appropriates moneys from General Fund to Oregon Climate Authority for biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by authority. Limits biennial expenditures by authority from certain lottery moneys. Limits biennial expenditures by authority from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.

1/23/19 H - Assigned to Subcommittee On Natural Resources.
1/15/19 H - Referred to Ways and Means.
1/14/19 H - First reading. Referred to Speaker's desk.

<u>SB</u>	Position	Priority
<u>0089</u>	Oppose	1

[Bill](#)
[Info](#)

Summary: Requires Environmental Quality Commission to adopt by rule program for assessing net impacts of state policies and programs for reducing greenhouse gas emissions. Declares emergency, effective on passage.

1/15/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u> <u>0098</u>	Position	Priority
	Monitor	1
<u>Bill</u> <u>Info</u>		
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
3/14/19	S - Work Session held.	
2/7/19	S - Public Hearing held.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u> <u>0220</u>	Position	Priority
	Oppose	1
<u>Bill</u> <u>Info</u>		
Summary:	Requires Department of Environmental Quality to conduct study related to greenhouse gas emissions. Sunsets January 2, 2022.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u> <u>0598</u>	Position	Priority
	Oppose	1
<u>Bill</u> <u>Info</u>		
Summary:	Changes name of Oregon Global Warming Commission to Oregon Climate Change Commission. Requires commission to appoint executive director. Appropriates moneys to commission for purposes related to executive director of commission. Modifies certain duties of commission and of certain nonvoting members of commission. Modifies certain duties of certain agencies of state government with regard to duties of commission.	
1/17/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0636</u>	Monitor	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
1/25/19	S - Referred to Environment and Natural Resources.	
1/22/19	S - Introduction and first reading. Referred to President's desk.	
<u>HB</u>	<u>Position</u>	<u>Priority</u>
<u>2093</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Permits Oregon Department of Administrative Services to contract with other entity, and to participate in, sponsor, conduct or administer cooperative procurements, for purpose of acquiring, installing, maintaining or operating devices or facilities to deliver electricity to public for electric motor vehicles. Specifies that solely for purpose of contracting agency's participating in, sponsoring, conducting or administering cooperative procurement, device or facility for delivering electricity to public for electric motor vehicles is not public improvement. Becomes operative on January 1, 2020. Takes effect on 91st day following adjournment sine die.	
1/28/19	H - Public Hearing held.	
1/15/19	H - Referred to Rules.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2242A</u>	Monitor	2
		<u>Bill</u>
		<u>Info</u>
Summary:	<p>Authorizes Public Utility Commission to consider differential energy burden and other inequities of affordability in rates. Authorizes public utilities to enter agreements to provide financial assistance for organizations to represent in regulatory proceedings before commission interests of low-income residential customers and residential customers that are members of environmental justice communities. Establishes Office of the Low-Income and Environmental Justice Advocate within commission. Authorizes office to intervene in certain proceedings.</p> <p>Requires Low-Income and Environmental Justice Advocate to convene advisory group to advise office in discharge of duties. Requires office to report on activities of office to interim committees of Legislative Assembly related to energy no later than December 1, 2021. Directs commission to establish public process for investigating ways to address and mitigate, through nonbypassable means, differential energy burdens on classes of <i>electric company</i> public utility customers and other inequities of affordability and environmental justice. Requires commission to report findings to interim committees of Legislative Assembly related to energy and business no later than September 15, 2020] incorporate findings into commission's 2020 report to Environmental Justice Task Force and Governor. Sunsets public process January 2, 2021.</p>	
3/4/19	H - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means by prior reference.	
3/4/19	H - Referred to Ways and Means by prior reference.	
2/26/19	H - Work Session held.	
1/31/19	H - Public Hearing held.	
1/15/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2322</u>	Monitor	2
		<u>Bill</u>
		<u>Info</u>
Summary:	Requires Land Conservation and Development Commission to amend statewide land use planning goals related to energy to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2329</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Modifies definition of "energy facility" for purposes of regulation of energy facilities by Energy Facility Siting Council. Broadens provisions for types of electric power generating plants that may elect to obtain site certificate from council if otherwise not required to obtain site certificate.		
3/28/19	H - Work Session scheduled.	
3/5/19	H - Public Hearing held.	
2/28/19	H - Public Hearing held.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2494</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Extends operation of public purpose charges until January 1, 2036.		
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2611</u>	Support	2
<u>Bill</u>		
<u>Info</u>		
Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.		
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2618</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	

Summary: Requires State Department of Energy to adopt by rule program for providing rebates for purchase, construction or installation of residential and commercial solar electric systems and paired solar and storage systems. Sets forth rebate limits under program. Establishes Rooftop Solar Incentive Fund. Continuously appropriates moneys in fund to department to issue rebates. Limits total amount of rebates issued annually for commercial systems. Appropriates moneys from General Fund to department for deposit in Rooftop Solar Incentive Fund. Requires department to submit annual report on program to Legislative Assembly. Sunsets January 2, 2024. Takes effect on 91st day following adjournment sine die.

3/26/19 H - Work Session scheduled.
 2/28/19 H - Public Hearing held.
 1/15/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.
 1/14/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>2791</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	

Summary: Modifies cost recovery formula for site certificate holders. Applies to annual fees due on and after July 1, 2020. Establishes Energy Facility Siting Task Force. Sunsets task force on December 31, 2020. Declares emergency, effective on passage.

1/28/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.
 1/24/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>2808</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	

Summary: Requires Oregon Business Development Department to establish competitive clean technology sector development grant program. Requires department to award grants to qualified lenders to develop and administer loan programs for funding clean technology sector development projects. Requires certain reporting related to grant program. Establishes Clean Technology Sector Development Fund. Requires moneys deposited in fund to be used for grant program.

2/4/19 H - Referred to Economic Development with subsequent referral to Ways and Means.

1/28/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>2852</u>	Monitor	2

[Bill](#)
[Info](#)

Summary: Authorizes local governments to form authorities for purpose of implementing community choice aggregation programs. Places certain requirements on electric companies and Public Utility Commission related to implementation of community choice aggregation programs. Applies certain renewable portfolio standards to community choice aggregation programs implemented by authorities. Includes authorities in list of persons subject to public purpose charge.

2/4/19 H - First reading. Referred to Speaker's desk.

2/4/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.

<u>HB</u>	Position	Priority
<u>2855</u>	Monitor	2

[Bill](#)
[Info](#)

Summary: Modifies general powers of Public Utility Commission.

3/28/19 H - Public Hearing scheduled.

2/4/19 H - Referred to Energy and Environment.

1/31/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>2857</u>	Oppose	2

[Bill](#)
[Info](#)

Summary: Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility.

3/26/19 H - Public Hearing scheduled.

2/4/19 H - Referred to Energy and Environment.

1/31/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>3025</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires State Forestry Department to establish Western Oregon Regional Carbon Sink as geographical area and take certain actions regarding area on or before January 1, 2031. Establishes Task Force on Western Oregon Regional Carbon Sink. Sunsets task force on December 31, 2020. Establishes Western Oregon Regional Carbon Sink Advisory Board. Declares emergency, effective on passage.	
2/25/19	H - Referred to Natural Resources.	
2/21/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>3027</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Authorizes State Treasurer to issue general obligation bonds under Article XI-E of Oregon Constitution in amount that produces \$500 million in net proceeds for Strategic Carbon Sequestration and Forestry Sustainability Program. Directs State Forestry Department to establish Strategic Carbon Sequestration and Forestry Sustainability Program.	
2/27/19	H - Referred to Revenue with subsequent referral to Ways and Means.	
2/21/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>3274</u>	Oppose	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Allows renewable energy certificates issued at any time for electricity generated by certified low-impact hydroelectric facility to be banked and carried forward indefinitely. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility. Declares jurisdiction of Public Utility Commission over certain matters related to qualifying facilities.	

3/26/19 H - Public Hearing scheduled.
3/11/19 H - Referred to Energy and Environment.
3/4/19 H - First reading. Referred to Speaker's desk.

HB **Position** **Priority**
5017 Monitor 2

Bill
Info

Summary: Appropriates moneys from General Fund to Department of Environmental Quality for certain biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, specified bond proceeds and specified federal funds, but excluding lottery funds and other federal funds, collected or received by department. Limits biennial expenditures from lottery moneys allocated from Parks and Natural Resources Fund to department. Authorizes specified nonlimited expenditures. Limits certain biennial expenditures by department from federal funds. Declares emergency, effective July 1, 2019.

2/21/19 H - Public Hearing held.
2/20/19 H - Public Hearing held.
2/19/19 H - Public Hearing held.
2/18/19 H - Public Hearing held.
1/23/19 H - Assigned to Subcommittee On Natural Resources.
1/15/19 H - Referred to Ways and Means.
1/14/19 H - First reading. Referred to Speaker's desk.

SB **Position** **Priority**
0038 Support 2

Bill
Info

Summary: Modifies provisions for treatment of renewable energy certificates issued for generation of thermal energy.

3/7/19 H - Public Hearing held.
2/13/19 H - Referred to Energy and Environment.
2/6/19 H - First reading. Referred to Speaker's desk.
2/5/19 S - Third reading. Carried by Prozanski. Passed.
1/31/19 S - Recommendation: Do pass.
1/31/19 S - Second reading.
1/29/19 S - Work Session held.
1/22/19 S - Public Hearing held.
1/15/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0068</u>	No Position	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Increases annual fee imposed on public utilities and telecommunications providers for purpose of defraying costs of Public Utility Commission. Declares emergency, effective on passage.	
3/6/19	S - Assigned to Subcommittee On Transportation and Economic Development.	
2/4/19	S - Recommendation: Without recommendation as to passage and be referred to Ways and Means.	
2/4/19	S - Referred to Ways and Means by order of the President.	
1/31/19	S - Public Hearing and Work Session held.	
1/15/19	S - Referred to Business and General Government.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0091</u>	Oppose	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires at least 50 percent of public purpose charge funds paid to nongovernmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0267</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2020. Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department formally declares default of payment of loan or that project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2020. Repeals certain provisions related to small scale local energy projects. Abolishes funds associated with provisions. Transfers moneys from abolished funds to Small Scale Local Energy Project Loan Fund. Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act. Repeals energy efficiency and sustainable technology loan program. Requires State Department of Energy to conduct audit of certain department activities. Declares emergency, effective on passage.		
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0451</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Establishes eligibility for renewable energy certificates for facilities that generate electricity from direct combustion of municipal solid waste and became operational before January 1, 1995, if such facilities register with Western Renewable Energy Generation Information System at any time.		
3/12/19	S - Public Hearing held.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0503</u>	Support	2
<u>Bill</u>		
<u>Info</u>		
Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.		

1/16/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0508 Support 2
[Bill](#)
[Info](#)

Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.
3/7/19 S - Public Hearing held.
1/16/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0712 Monitor 2
[Bill](#)
[Info](#)

Summary: Reduces, to 0.15 percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0713 Monitor 2
[Bill](#)
[Info](#)

Summary: Requires State Department of Energy to conduct study on department's contributions to leading State of Oregon to safe, clean and sustainable energy future.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0714 Monitor 2
[Bill](#)
[Info](#)

Summary: Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	Position	Priority
<u>0715</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.		
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0928</u>	Oppose	2
<u>Bill</u>		
<u>Info</u>		
Summary: Establishes Oregon Climate Authority. Establishes Oregon Climate Board. Transfers greenhouse gas reporting program from Department of Environmental Quality to Oregon Climate Authority. Abolishes State Department of Energy. Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Transfers remaining duties, functions and powers of State Department of Energy to Oregon Climate Authority. Modifies permissible uses of energy supplier assessment. Abolishes Sustainability Board and Oregon Global Warming Commission. Establishes Energy Program Review Task Force. Becomes operative January 1, 2020. Declares emergency, effective on passage.		
3/6/19	S - Referred to Environment and Natural Resources.	
3/4/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>5534</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Limits certain biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Public Utility Commission of Oregon. Limits biennial expenditures by commission from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.		
1/30/19	S - Public Hearing held.	
1/23/19	S - Assigned to Subcommittee On Transportation and Economic Development.	
1/15/19	S - Referred to Ways and Means.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	



Oregon Weekly Report

March 25, 2019

The Oregon legislature wrapped up week number nine. This upcoming week, we will learn the bills that survive the first chamber deadline and will continue to move. Bills must be posted by a work session by March 29th in order to advance. We also anticipate the first round of amendments to HB 2020.

What Happened This Week at the Oregon Capitol

- **Joint Committee on Carbon Reduction:** This week, the Governor's office met with a group of business lobbyists to discuss the bill and amendments. The takeaway is that industry's concerns have largely been ignored. The Governor's office doesn't appear to be willing to make concessions around natural gas or direct access costs, or look for ways to increase exemptions, allowances, or offsets. The push still centers around the need to reduce emissions, and in order to do that, some costs will be incurred.
- **Senate Environment and Natural Resources:** On Thursday afternoon, the committee held an informational hearing on SB 928. This legislation creates the Oregon Climate Authority. The Governor was the only person invited to testify. Senator Dembrow will hold an informational hearing on the bill at a later date.

Key Takeaways

- Governor Brown indicated 2018 was the warmest year, and that global warming is the crisis of our time.
- She touted progress being made with energy efficiency and called for the need for a clean energy to expand electric vehicles on the road while working to decarbonize our electric grid.
- Over the next 18 months, the new agency would dissolve the Oregon Department of Energy and oversee climate policies of the state.
- The Governor is pushing to have a director appointed and approved by the Senate during the September legislative days.

- The new agency would fund 112 positions, that include:
 - 14 new positions to implement the new cap-and-trade policy.
 - 4 positions from the DEQ from the emissions reporting program transfer.
 - 94 positions would transfer from the Oregon Department of Energy.
- Legislation creates a nine-member board appointed by the Governor to oversee the Climate Authority and replace the state's Global Warming Commission.
- The new agency would be funded with some GF money along with energy supplier assessment, federal funds, and other fees.

- **House Energy and Environment:** The House committee did not hold any meetings on bills with energy impacts to industrial customers.

What's Going on This Next Week

- **Joint Committee on Carbon Reduction:** On Monday evening, the committee is scheduled to hold an informational hearing on the omnibus amendments, which are the -31 amendments. Legislative Counsel is slated to testify and walk the committee through the new amendments. On Friday, the committee is scheduled to hold a work session to discuss amendments.
- **Senate Environment and Natural Resources:** The committee has not currently scheduled any meetings this upcoming week on issues dealing with energy or bills that would have direct cost impacts to AWEC members.
- **House Energy and Environment:** This week the House committee will hold public hearing on a host of bills on net-metering as well as small scale renewables. AWEC opposes HB 2857 and HB 3247. Legislation requires that eight percent of electricity sold in the state by the IOUs be generated by small-scale renewable facilities. PGE has estimated that the rate impact of HB 2857 would be at least \$50 million a year starting in 2025. Later in the week, the committee will hear legislation that modifies the PUC powers, looks at laws related to electric vehicle charging stations, as well as a bill to modify the definition of energy facility for the purposes of regulation by the Energy Facility Council.

Bills AWEC is Tracking

Alliance of Western Energy Consumers

<u>HB</u>	<u>Position</u>	<u>Priority</u>
<u>2020</u>	Oppose	1

[Bill](#)
[Info](#)

Summary: Establishes Carbon Policy Office within Oregon Department of Administrative Services and directs Director of Carbon Policy Office to adopt Oregon Climate Action Program by rule. Modifies statewide greenhouse gas emissions reduction goals. Establishes Joint Committee on Climate Action. Establishes purposes of Oregon Climate Action Program and provisions for investment of moneys received by state as proceeds from auctions conducted under program. Requires program to place cap on greenhouse gas emissions that are regulated emissions and provide market-based mechanism for covered entities to demonstrate compliance with program. Sets forth certain other requirements for program and for rules adopted by Director of Carbon Policy Office related to program. Establishes certain funds. Sets forth requirements for uses of moneys deposited in funds. Authorizes Public Utility Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers. Transfers duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to greenhouse gas reporting to Carbon Policy Office. Amends greenhouse gas reporting statute. Repeals Energy Facility Siting Council carbon dioxide emissions standards. Includes provisions for treatment of site certificate conditions affected by repeal of carbon dioxide emissions standards. Provides that provisions related to Carbon Policy Office, Oregon Climate Action Program, investment of certain moneys, Public Utility Commission, transfer of duties, and repeal of Energy Facility Siting Council carbon dioxide emissions standards become operative January 1, 2021. Provides for expedited review of certain questions on Act to Supreme Court upon petition by adversely affected party. Declares emergency, effective on passage.

3/29/19 H - Work Session scheduled.
3/25/19 H - Work Session scheduled.
3/2/19 H - Public Hearing held.
3/1/19 H - Public Hearing held.
2/25/19 H - Public Hearing held.
2/23/19 H - Public Hearing held.
2/22/19 H - Public Hearing held.
2/18/19 H - Public Hearing held.
2/15/19 H - Public Hearing held.
2/11/19 H - Informational Meeting held.
2/8/19 H - Informational Meeting held.
2/4/19 H - First reading. Referred to Speaker's desk.
2/4/19 H - Referred to Carbon Reduction.

HB **Position** **Priority**
5044 Oppose 1

[Bill](#)
[Info](#)

Summary: Appropriates moneys from General Fund to Oregon Climate Authority for biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by authority. Limits biennial expenditures by authority from certain lottery moneys. Limits biennial expenditures by authority from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.

1/23/19 H - Assigned to Subcommittee On Natural Resources.
1/15/19 H - Referred to Ways and Means.
1/14/19 H - First reading. Referred to Speaker's desk.

SB **Position** **Priority**
0089 Oppose 1

[Bill](#)
[Info](#)

Summary: Requires Environmental Quality Commission to adopt by rule program for assessing net impacts of state policies and programs for reducing greenhouse gas emissions. Declares emergency, effective on passage.

1/15/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	Position	Priority
<u>0098A</u>	Monitor	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Public Utility Commission to adopt by rule <i>renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers.</i>] large renewable natural gas program and small renewable natural gas program. Requires commission to adopt rules no later than <i>December 31, 2019</i>] July 31, 2020. Takes effect on 91st day following adjournment sine die.	
3/19/19	S - Recommendation: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)	
3/19/19	S - Referred to Ways and Means by order of the President.	
3/14/19	S - Work Session held.	
2/7/19	S - Public Hearing held.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0220</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Department of Environmental Quality to conduct study related to greenhouse gas emissions. Sunsets January 2, 2022.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0598</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Changes name of Oregon Global Warming Commission to Oregon Climate Change Commission. Requires commission to appoint executive director. Appropriates moneys to commission for purposes related to executive director of commission. Modifies certain duties of commission and of certain nonvoting members of commission. Modifies certain duties of certain agencies of state government with regard to duties of commission.	
1/17/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0636</u>	Monitor	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
1/25/19	S - Referred to Environment and Natural Resources.	
1/22/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0902</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Declares policy of state to encourage sustainable growth by funding reduction of certain taxes with imposition of tax on amount of carbon dioxide equivalent emissions from combustion of certain carbon-based fuels. Imposes tax on each fuel supplier and utility based on amount of carbon dioxide equivalent emissions from combustion of carbon-based fuel that is sold by fuel supplier to consumers in state or that is used to produce carbon-generated electricity supplied by utility to consumers in state. Limits tax on certain oil and natural gas to six percent of market value of oil or natural gas. Distributes moneys collected from tax to General Fund, unless other distribution required under Oregon Constitution. Modifies personal income tax rates for certain taxpayers by modifying income tax brackets. First applies beginning on or after January 1, 2019. Takes effect on 91st day following adjournment sine die.	
3/1/19	S - Referred to Environment and Natural Resources, then Finance and Revenue.	
2/28/19	S - Introduction and first reading. Referred to President's desk.	

<u>HB</u> <u>2093</u>	Position	Priority
	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary:	Permits Oregon Department of Administrative Services to contract with other entity, and to participate in, sponsor, conduct or administer cooperative procurements, for purpose of acquiring, installing, maintaining or operating devices or facilities to deliver electricity to public for electric motor vehicles. Specifies that solely for purpose of contracting agency's participating in, sponsoring, conducting or administering cooperative procurement, device or facility for delivering electricity to public for electric motor vehicles is not public improvement. Becomes operative on January 1, 2020. Takes effect on 91st day following adjournment sine die.	
3/25/19	H - Possible Work Session scheduled.	
1/28/19	H - Public Hearing held.	
1/15/19	H - Referred to Rules.	
1/14/19	H - First reading. Referred to Speaker's desk.	
<u>HB</u> <u>2242A</u>	Position	Priority
	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary:	<p>Authorizes Public Utility Commission to consider differential energy burden and other inequities of affordability in rates. Authorizes public utilities to enter agreements to provide financial assistance for organizations to represent in regulatory proceedings before commission interests of low-income residential customers and residential customers that are members of environmental justice communities. Establishes Office of the Low-Income and Environmental Justice Advocate within commission. Authorizes office to intervene in certain proceedings.</p> <p>Requires Low-Income and Environmental Justice Advocate to convene advisory group to advise office in discharge of duties. Requires office to report on activities of office to interim committees of Legislative Assembly related to energy no later than December 1, 2021. Directs commission to establish public process for investigating ways to address and mitigate, through nonbypassable means, differential energy burdens on classes of <i>electric company</i> public utility customers and other inequities of affordability and environmental justice. Requires commission to <i>report findings to interim committees of Legislative Assembly related to energy and business no later than September 15, 2020</i> incorporate findings into commission's 2020 report to Environmental Justice Task Force and Governor. Sunsets public process January 2, 2021.</p>	

3/4/19	H - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means by prior reference.
3/4/19	H - Referred to Ways and Means by prior reference.
2/26/19	H - Work Session held.
1/31/19	H - Public Hearing held.
1/15/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.
1/14/19	H - First reading. Referred to Speaker's desk.

**HB
2322** **Position** **Priority**
[Monitor](#) 2
[Bill](#)
[Info](#)

Summary:	Requires Land Conservation and Development Commission to amend statewide land use planning goals related to energy to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.
4/2/19	H - Public Hearing and Possible Work Session scheduled.
1/18/19	H - Referred to Energy and Environment.
1/14/19	H - First reading. Referred to Speaker's desk.

**HB
2329** **Position** **Priority**
[Monitor](#) 2
[Bill](#)
[Info](#)

Summary:	Modifies definition of "energy facility" for purposes of regulation of energy facilities by Energy Facility Siting Council. Broadens provisions for types of electric power generating plants that may elect to obtain site certificate from council if otherwise not required to obtain site certificate.
3/28/19	H - Work Session scheduled.
3/5/19	H - Public Hearing held.
2/28/19	H - Public Hearing held.
1/18/19	H - Referred to Energy and Environment.
1/14/19	H - First reading. Referred to Speaker's desk.

**HB
2494** **Position** **Priority**
[Monitor](#) 2
[Bill](#)
[Info](#)

Summary:	Extends operation of public purpose charges until January 1, 2036.
1/18/19	H - Referred to Energy and Environment.
1/14/19	H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
2611	Support	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	
<u>HB</u>	Position	Priority
2618	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires State Department of Energy to adopt by rule program for providing rebates for purchase, construction or installation of residential and commercial solar electric systems and paired solar and storage systems. Sets forth rebate limits under program. Establishes Rooftop Solar Incentive Fund. Continuously appropriates moneys in fund to department to issue rebates. Limits total amount of rebates issued annually for commercial systems. Appropriates moneys from General Fund to department for deposit in Rooftop Solar Incentive Fund. Requires department to submit annual report on program to Legislative Assembly. Sunsets January 2, 2024. Takes effect on 91st day following adjournment sine die.	
3/26/19	H - Work Session scheduled.	
2/28/19	H - Public Hearing held.	
1/15/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	
<u>HB</u>	Position	Priority
2791	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Modifies cost recovery formula for site certificate holders. Applies to annual fees due on and after July 1, 2020. Establishes Energy Facility Siting Task Force. Sunsets task force on December 31, 2020. Declares emergency, effective on passage.	
1/28/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/24/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2808</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Oregon Business Development Department to establish competitive clean technology sector development grant program. Requires department to award grants to qualified lenders to develop and administer loan programs for funding clean technology sector development projects. Requires certain reporting related to grant program. Establishes Clean Technology Sector Development Fund. Requires moneys deposited in fund to be used for grant program.	
2/4/19	H - Referred to Economic Development with subsequent referral to Ways and Means.	
1/28/19	H - First reading. Referred to Speaker's desk.	
HB	Position	Priority
<u>2852</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Authorizes local governments to form authorities for purpose of implementing community choice aggregation programs. Places certain requirements on electric companies and Public Utility Commission related to implementation of community choice aggregation programs. Applies certain renewable portfolio standards to community choice aggregation programs implemented by authorities. Includes authorities in list of persons subject to public purpose charge.	
2/4/19	H - First reading. Referred to Speaker's desk.	
2/4/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
HB	Position	Priority
<u>2855</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Modifies general powers of Public Utility Commission.	
3/28/19	H - Public Hearing scheduled.	
2/4/19	H - Referred to Energy and Environment.	
1/31/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2857</u>	Oppose	2
<u>Bill</u>		
<u>Info</u>		
Summary: Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility.		

3/26/19 H - Public Hearing scheduled.
 2/4/19 H - Referred to Energy and Environment.
 1/31/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>3025</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Requires State Forestry Department to establish Western Oregon Regional Carbon Sink as geographical area and take certain actions regarding area on or before January 1, 2031. Establishes Task Force on Western Oregon Regional Carbon Sink. Sunsets task force on December 31, 2020. Establishes Western Oregon Regional Carbon Sink Advisory Board. Declares emergency, effective on passage.		

2/25/19 H - Referred to Natural Resources.
 2/21/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>3027</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Authorizes State Treasurer to issue general obligation bonds under Article XI-E of Oregon Constitution in amount that produces \$500 million in net proceeds for Strategic Carbon Sequestration and Forestry Sustainability Program. Directs State Forestry Department to establish Strategic Carbon Sequestration and Forestry Sustainability Program.		

2/27/19 H - Referred to Revenue with subsequent referral to Ways and Means.
 2/21/19 H - First reading. Referred to Speaker's desk.

<u>HB</u> <u>3229</u>	Position	Priority
	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Repeals provisions of law related to collection of surcharge for removal of Klamath River dams upon failure of relevant parties to begin dam removal. Establishes Klamath Fish Habitat Enhancement Fund. Directs certain moneys collected for removal of Klamath River dams to be transferred to fund for watershed enhancement projects that serve to improve salmon and trout habitat near Klamath River dams. Directs certain moneys collected for removal of Klamath River dams to be used by PacifiCorp for activities related to compliance with federal regulatory requirements. Repeals, on January 2, 2021, the repeal of provisions of law related to collection of surcharge for removal of Klamath River dams removal if Public Utility Commission reports to Legislative Counsel and Legislative Assembly that dam removal began on or before December 31, 2019. Declares emergency, effective on passage.	
3/11/19	H - Referred to Natural Resources with subsequent referral to Ways and Means.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>3274</u>	Position	Priority
	Oppose	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Allows renewable energy certificates issued at any time for electricity generated by certified low-impact hydroelectric facility to be banked and carried forward indefinitely. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility. Declares jurisdiction of Public Utility Commission over certain matters related to qualifying facilities.	
3/26/19	H - Public Hearing scheduled.	
3/11/19	H - Referred to Energy and Environment.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>3325</u>	Position	Priority
	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires public utility to meet certain requirements for processing applications from nonresidential customer-generators to interconnect to electric distribution system net metering facility that has generating capacity of more than 25 kilowatts but less than two megawatts. Requires Public Utility Commission to adopt rules requiring public utilities to equitably apportion costs of engineering, construction or installation of facilities within public right of way that will allow for safe interconnection of multiple net metering facilities.	
3/26/19	H - Public Hearing scheduled.	
3/21/19	H - Public Hearing held.	
3/11/19	H - Referred to Energy and Environment.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>5017</u>	Position	Priority
	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Appropriates moneys from General Fund to Department of Environmental Quality for certain biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, specified bond proceeds and specified federal funds, but excluding lottery funds and other federal funds, collected or received by department. Limits biennial expenditures from lottery moneys allocated from Parks and Natural Resources Fund to department. Authorizes specified nonlimited expenditures. Limits certain biennial expenditures by department from federal funds. Declares emergency, effective July 1, 2019.	
2/21/19	H - Public Hearing held.	
2/20/19	H - Public Hearing held.	
2/19/19	H - Public Hearing held.	
2/18/19	H - Public Hearing held.	
1/23/19	H - Assigned to Subcommittee On Natural Resources.	
1/15/19	H - Referred to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0038</u>	Support	2
<u>Bill</u>		
<u>Info</u>		
Summary: Modifies provisions for treatment of renewable energy certificates issued for generation of thermal energy.		
3/7/19	H - Public Hearing held.	
2/13/19	H - Referred to Energy and Environment.	
2/6/19	H - First reading. Referred to Speaker's desk.	
2/5/19	S - Third reading. Carried by Prozanski. Passed.	
1/31/19	S - Recommendation: Do pass.	
1/31/19	S - Second reading.	
1/29/19	S - Work Session held.	
1/22/19	S - Public Hearing held.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0068</u>	No Position	2
<u>Bill</u>		
<u>Info</u>		
Summary: Increases annual fee imposed on public utilities and telecommunications providers for purpose of defraying costs of Public Utility Commission. Declares emergency, effective on passage.		
3/28/19	S - Public Hearing and Work Session scheduled.	
3/6/19	S - Assigned to Subcommittee On Transportation and Economic Development.	
2/4/19	S - Recommendation: Without recommendation as to passage and be referred to Ways and Means.	
2/4/19	S - Referred to Ways and Means by order of the President.	
1/31/19	S - Public Hearing and Work Session held.	
1/15/19	S - Referred to Business and General Government.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0091</u>	Oppose	2
<u>Bill</u>		
<u>Info</u>		
Summary: Requires at least 50 percent of public purpose charge funds paid to nongovernmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.		

1/15/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0267 Monitor 2

[Bill](#)

[Info](#)

Summary: Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2020. Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department formally declares default of payment of loan or that project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2020. Repeals certain provisions related to small scale local energy projects. Abolishes funds associated with provisions. Transfers moneys from abolished funds to Small Scale Local Energy Project Loan Fund. Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act. Repeals energy efficiency and sustainable technology loan program. Requires State Department of Energy to conduct audit of certain department activities. Declares emergency, effective on passage.

1/15/19 S - Referred to Environment and Natural Resources.

1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0451 Monitor 2

[Bill](#)

[Info](#)

Summary: Establishes eligibility for renewable energy certificates for facilities that generate electricity from direct combustion of municipal solid waste and became operational before January 1, 1995, if such facilities register with Western Renewable Energy Generation Information System at any time.

3/12/19 S - Public Hearing held.

1/28/19 S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.

1/25/19 S - Work Session held.

1/17/19 S - Referred to Carbon Reduction.

1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	Position	Priority
<u>0503</u>	Support	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	
1/16/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB</u>	Position	Priority
<u>0508</u>	Support	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	
3/7/19	S - Public Hearing held.	
1/16/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB</u>	Position	Priority
<u>0712</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Reduces, to 0.15 percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed.	
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB</u>	Position	Priority
<u>0713</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires State Department of Energy to conduct study on department's contributions to leading State of Oregon to safe, clean and sustainable energy future.	
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	

SB	Position	Priority
<u>0714</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary:	Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.	
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	

SB	Position	Priority
<u>0715</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary:	Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.	
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	

SB	Position	Priority
<u>0928</u>	Oppose	2
<u>Bill</u>		
<u>Info</u>		
Summary:	Establishes Oregon Climate Authority. Establishes Oregon Climate Board. Transfers greenhouse gas reporting program from Department of Environmental Quality to Oregon Climate Authority. Abolishes State Department of Energy. Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Transfers remaining duties, functions and powers of State Department of Energy to Oregon Climate Authority. Modifies permissible uses of energy supplier assessment. Abolishes Sustainability Board and Oregon Global Warming Commission. Establishes Energy Program Review Task Force. Becomes operative January 1, 2020. Declares emergency, effective on passage.	
3/6/19	S - Referred to Environment and Natural Resources.	
3/4/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>5534</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Limits certain biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Public Utility Commission of Oregon.	
	Limits biennial expenditures by commission from federal funds.	
	Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.	
3/28/19	S - Work Session scheduled.	
1/30/19	S - Public Hearing held.	
1/23/19	S - Assigned to Subcommittee On Transportation and Economic Development.	
1/15/19	S - Referred to Ways and Means.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

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MEMORANDUM

Attorney/Client Privilege

March 26, 2019

TO: John Carr, Ed Finklea, J.L. Wilson, Justen Rainey
AWEC Oregon Members

FROM: Tyler Pepple

RE: Analysis of Omnibus Amendments to HB 2020 – Cap and Trade Legislation

I. INTRODUCTION

On March 25, 2019, the Joint Committee on Carbon Reduction released the “-31” amendments to HB 2020 (the “Amendments”), Oregon’s proposed cap and trade legislation. The Amendments are an omnibus set of amendments that include both technical fixes and make substantive changes to the original legislation. Nevertheless, the Amendments include few improvements from the original legislation for business and in some cases are detrimental. Natural gas utilities and suppliers remain fully regulated under the act, with natural gas utilities continuing to receive free allowances only to offset cost increases for their low-income customers. Electricity service suppliers serving direct access customers also remain fully exposed to cost increases. The temporary exemption for certain greenhouse gases emitted in semiconductor operations would be eliminated. Further, the process for allocating allowances to “emissions-intensive, trade-exposed” (“EITE”) entities would change significantly, but with unclear impacts.

II. ANALYSIS

The discussion below identifies changes from the original HB 2020 and analyzes their impact relative to the previous version. For analysis of sections that are unchanged from the original bill, please refer to the previous memorandum provided to the AWEC membership on February 8, 2019.

A. General changes to the cap and trade program

The Amendments would make two substantive changes to the general provisions governing the cap and trade program. First, they specify that the program regulates only “anthropogenic emissions,” thus excluding “biogenic emissions,” which occur from the combustion of biomass fuels. Second, they modify the baseline for achieving emissions reductions. The program still requires a reduction of carbon emissions to at least 80% below 1990 levels by 2050, but whereas the original bill required these reductions based on the average of the three most recent years for which data is available prior to 2021, the Amendments would set the baseline at a forecast of 2021 emissions, using these same three prior years. Thus, while the original bill includes an objective and transparent measurement of the baseline, the Amendments leave room for subjectivity in developing the 2021 forecast.

B. Natural gas remains fully regulated

Despite repeated complaints from customers, the natural gas industry, and utilities, the Amendments make no substantive changes to the regulation of natural gas under the cap and trade program. Customers that do not qualify as low-income or as EITE will be responsible, directly or indirectly, for the full cost of allowances necessary to cover their natural gas consumption.

The Amendments do include a new definition of “natural gas supplier” (which was not defined in the original bill), which appears to be vastly overbroad in that it includes “any entity that is not a natural gas utility and: (a) That procures natural gas for end use in this state.” Read literally, this definition would encompass every end user of natural gas in the state, including every residential customer. As a practical matter, however, the breadth of this definition may be immaterial because the bill only regulates natural gas suppliers with respect to the combustion of natural gas that the supplier *sells* for use in Oregon by persons that are not designated as covered entities. Nevertheless, the definition of “natural gas supplier” could create unintended consequences and members should review this definition within the context of their specific circumstances.

C. Direct access electricity customers are potentially worse off than under the original bill

As in the original bill, the Amendments make no provision for free allowances to direct access customers, despite the fact that their electricity service suppliers are subject to the same renewable portfolio standard requirements as the electric utilities. In addition, the Amendments provide further specificity over the approved use of auction allowance proceeds for the benefit of an electric company’s customers. The original bill included vague and general provisions stating that an electric company could use these proceeds for “bill assistance” and “rate design based solutions,” thereby at least providing an opportunity to argue at the Public Utility Commission (“PUC”) that direct access customers should receive a portion of these allowance revenues under these provisions. The Amendments, conversely, limit “bill assistance” to low-income customers. The Amendments specify that this type of assistance, as well as other

investments, are to be “prioritized,” so some assistance to offset increased costs for direct access customers is not entirely foreclosed, but for purposes of analysis of this bill, members should assume that the PUC will not require electric companies to provide allowance revenues to direct access customers.

D. Electric utilities remain fully insulated from cost impacts through 2030.

HB 2020 as originally drafted contained the most protections for PGE and PacifiCorp, giving them 100% free allowances through 2030. That has not changed (though minor modifications were made to the calculation of free allowances for the utilities in 2030), and if anything the protections have become stronger. A new section 52, for instance, requires the PUC to “establish a process to ensure prudent, appropriate and contemporaneous cost recovery for public utilities” This is likely to ensure that PGE and PacifiCorp fully recover any costs of compliance with cap and trade immediately from customers.

E. The Amendments do not substantively impact BPA customers

The Amendments make a few technical changes to Section 12, governing the distribution of allowances to consumer-owned utilities or their electric system managers, but the overall requirements remain unchanged: consumer-owned utilities with attributable emissions below 25,000 metric tons remain exempt, and all others receive 100% free allowances in 2021, declining at a constant rate thereafter.

F. The Amendments would substantively modify allowance allocations to EITEs

Significant changes have been made to the sections governing the designation of EITEs and the provision of free allowances to them. First, the bill clarifies that non-covered entities may opt-in as EITE to receive free allowances. This was likely the intent in the original version, it but was unclear. Second, the Amendments modify the listed EITE classifications to identify them by NAICS group (i.e., the first four digits) rather than specific industry code. Overall, this appears to be slightly more inclusive, though NAICS Code 212319 covering Other Crushed and Broken Stone Mining and Quarrying has been dropped from the list. The Amendments add Code 3211, covering Sawmills and Wood Preservation, and Code 3315, covering Foundries, but aerospace and industrial gas manufacturing, among others, remain excluded from explicit EITE designation. All other EITE classifications from the original bill remain. The Amendments also would continue to allow the Carbon Policy Office (“CPO”) to designate additional EITE categories through rulemaking.

HB 2020 as introduced provides 100% free allowances to EITEs in 2021 based on a unit-specific emissions calculation. For industries with three or more facilities in the state, the calculation is based on the industry average; for industries with one or two facilities, it is facility-specific. Free allowances then decline at a constant rate after 2021. Under the Amendments, the unit-specific emissions calculation would be maintained, but it would apply to each EITE entity individually, regardless of the number of facilities in the state. Additionally, entities would receive free allowances to cover 95% of their unit-specific emissions in 2021 through 2023.

After that, and until 2050, the allocation of free allowances would be based on a “best available technology” (“BAT”) determination. BAT is defined as “the technology that will most efficiently reduce the greenhouse gas emissions associated with the manufacture of a good, without changing the characteristics of the good being manufactured, that is technically feasible, commercially available, economically viable and compliant with all applicable laws.” By January 1, 2024, the CPO is required to adopt BAT for each good manufactured by an EITE entity and update it every six years. This determination may be influenced by reports and audits the EITE entity may provide to the CPO. It appears that the intention is for the CPO to allocate free allowances based on the emissions that would result if the EITE were implementing BAT in its processes. However, the Amendments to do specifically include this requirement, and do not specify whether the allocation should cover 100% of emissions under BAT or 95%, as would be allocated to EITEs until 2023 while BAT is being developed. Thus, uncertainty remains over the number of allowances an EITE will receive.

G. The Amendments would eliminate the temporary exemption for “f-gases”

HB 2020 in its current form establishes an exemption from regulation for fluorinated gases (“f-gases”) produced during semiconductor manufacturing until 2026. That temporary exemption is eliminated entirely in the proposed amended version. The cost impact to affected facilities of eliminating this exemption, however, is somewhat unclear because semiconductor manufacturers are also eligible for free allowances as EITEs. Consequently, it would seem that the cost impact of removing the exemption would be associated with any allowances affected facilities would need to purchase associated with f-gas emissions that would not already be covered by freely allocated allowances.

H. The Amendments include additional specificity in the use of auction proceeds for natural gas utilities and EITEs

The Amendments also make a number of substantive changes to how auction revenue is to be used. As discussed in our memo on the original bill, the legislation establishes certain funds to ensure compliance with constitutional requirements related to transportation and school funding. Two percent of the remaining revenues are allocated to fund the CPO, and the rest goes to the Climate Investments Fund. Among other things, the Amendments would require the CPO to develop a “biennial climate action investment plan.” The plan is intended to “identify the short-term and long-term objectives of the state for making expenditures and investments” from the Climate Investments Fund. With regard to these objectives, the Amendments provide guidance to the CPO. This includes encouragement to invest: (1) an amount in energy efficiency that is “approximately equal to” the amount received through proceeds from allowance purchases by natural gas utilities; and (2) approximately half the amount received from allowance purchases by EITEs to assist them in implementing BAT for their facilities.

I. Miscellaneous changes

The Amendments include a host of additional changes to HB 2020 that are less relevant to the AWEC membership as a whole, but may be of interest to individual members. Please feel free to contact me about any of them to discuss further. For instance, the Amendments provide further detail on the creation and determination of carbon offsets as eligible compliance instruments. They also establish the procedure for the sale of allowances if the hard price ceiling in an auction is reached and allowances in all reserve accounts have been sold. In that instance, the CPO may sell additional allowances at the hard price ceiling to ensure covered and opt-in entities may achieve compliance. Proceeds from the sale of these allowances go into a separate fund to purchase and retire offset credits.

The Amendments also provide additional exemptions from disclosure under the public records law for certain individually identifiable information provided to enable participation in allowance auctions and to establish good-specific emissions factors for EITEs. Aggregated information remains disclosable, however.

A new section also empowers the CPO to assess civil penalties for violations of any requirements in the cap and trade program. Penalties are up to \$10,000 per day, unless the violation is determined to be “intentional, reckless or negligent,” in which case penalties can be as high as \$25,000 per day.

Forestry carbon offsets in existing law are eliminated in the proposed Amendments to HB 2020, likely because the Amendments also include new offset protocols related to forestry within the cap and trade program.

The Amendments also require the CPO to prepare a report no later than January 1, 2025 analyzing whether the current exclusion from regulated emissions for aviation fuel and fuel used in watercraft and railroad locomotives should be maintained.

Finally, HB 2020 exempts from regulation emissions associated with the direct combustion of municipal solid waste to generate renewable energy. The Amendments eliminate this exemption, which could impact any electric cooperative members of PNGC Power (and by extension customers of those cooperatives), which owns Coffin Butte, a facility that would fall within this exemption.

III. CONCLUSION

While extensive, it would be wrong to present the new Amendments to HB 2020 as a wholesale rewrite of the bill. In fact, HB 2020 would be fundamentally unchanged if the Amendments were adopted. While some AWEC members may be better or worse off due to changes to EITE designations and allowance allocations, or the removal of the temporary exemption for f-gases, broader categories of customers are largely unaffected. Customers who are not EITE remain fully exposed to increased natural gas costs, as do direct access customers with respect to electricity costs. Changes to allowance allocations for EITEs are material and

Memorandum

March 26, 2019

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appear to result in a more consistent allocation of allowances over time, but introduction of the BAT analysis creates new uncertainties for individual facilities, and a number of AWEC members remain excluded from an explicit EITE designation.

Please feel free to contact me if you have any questions or would like to discuss any of the Amendments in more detail.



Oregon Weekly Report

April 1, 2019

The Oregon legislature wrapped up week 10 and the first official deadline. Bills needed to post on Friday for a work session in order to keep moving. Bills must pass out of the committee or be moved to an open committee by April 9th in order to remain alive. Open committees include Revenue, Joint Ways and Means, Joint Carbon, and Joint Transportation Committees.

What Happened This Week at the Oregon Capitol

- **Joint Committee on Carbon Reduction:** This week, the Governor released the -31 amendments. Legislative Counsel appeared before the committee and walked through the amendments section by section. AWEC still has substantial concerns with the bill and with the amendment language. Tyler's memo highlights those concerns and is included with this weekly update. Essentially, no changes for direct access customers or natural gas users, and no cost relief for industry.

This week, the Governor's office also testified in front of the Joint Committee on Carbon Reduction to discuss the benefits of linkage with California's system. They are pitching the need to link as joining a better, more established market that would lead to lower prices for allowances and lower costs for compliance with cap-and-trade. It is unclear with adoption of the -31 amendments if Oregon could link with other jurisdictions like California.

- **House Energy and Environment:** The House committee held a public hearing on small scale renewables (HB 2857). Legislation requires that eight percent of electricity sold in the state by the IOUs be generated by small-scale renewable facilities. PGE has estimated that the rate impact of HB 2857 would be at least \$50 million a year starting in 2025. The utilities strongly opposed the measure during the hearing.
- **Senate Environment and Natural Resources:** The committee has not currently scheduled any meetings this upcoming week on issues dealing with energy or bills that would have direct cost impacts to AWEC members.
- **Joint Ways and Means Subcommittee on Transportation and Economic Development:** The committee adopted the PUC budget bill, SB 5534, and SB 68 which included the fee increase. The bills advance to the full Committee on Ways and Means and then to the House and Senate floor.

What's Going on This Next Week

- **Joint Committee on Carbon Reduction:** We expect the committee to continue discussing a variety of amendments that are being floated and additional changes by the Governor's office and legislative leadership.
- **First Chamber Deadline:** This week committees are holding some public hearings, but primarily holding work sessions to discuss bills and amendments to the bills they hope to move. Bills must be voted out of committee by April 9th for further consideration this session. Below is a look at the bills that AWEC members care about that have been posted for work sessions, are already in open committees, or committees that aren't subject to deadlines. Lastly, there is a list of bills that didn't get a work session. From our perspective, nothing major and mostly placeholder bills that didn't get scheduled.
- **AWEC Priority Bills Posted for Work Sessions This Week**
 - HB 2494: Extends PPC until 2036 (House Energy and Environment)
 - HB 2857, HB 3274: Small Scale Renewable (House Energy and Environment)
 - SB 928: Creates Oregon Climate Authority (Senate Environment and Natural Resources)
- **Bills in Open Committees**
 - HB 2020: Cap-and-Trade (Joint Carbon Committee)
 - HB 5044: Budget Appropriation for Oregon Climate Authority (Joint Ways and Means)
 - SB 98: Voluntary Renewable Natural Gas (Joint Ways and Means)
 - HB 2242: Subsidized Energy for Low Income Customers (Joint Ways and Means)
 - SB 38: Thermal RECS (House Energy and Environment)
 - SB 68: PUC Fee/Staffing Increase (Joint Ways and Means)
 - SB 5534: PUC Budget (Joint Ways and Means)
- **AWEC Priority Bills Not Posted**
 - SB 89: Greenhouse Gas Bill – Carbon Placeholder
 - SB 91: Requires 50% of PPC Fund Transportation Electrification
 - SB 220: DEQ Greenhouse Gas Study
 - SB 598: Changes Name Oregon Global Warming Commission
 - SB 636: Voluntary Renewable Natural Gas
 - SB 902: Carbon Tax
 - HB 2852: Community Choice Aggregation

Bills AWEC is Tracking

Alliance of Western Energy Consumers

<u>HB</u>	<u>Position</u>	<u>Priority</u>
<u>2020</u>	Oppose	1

[Bill](#)
[Info](#)

Summary: Establishes Carbon Policy Office within Oregon Department of Administrative Services and directs Director of Carbon Policy Office to adopt Oregon Climate Action Program by rule. Modifies statewide greenhouse gas emissions reduction goals. Establishes Joint Committee on Climate Action. Establishes purposes of Oregon Climate Action Program and provisions for investment of moneys received by state as proceeds from auctions conducted under program. Requires program to place cap on greenhouse gas emissions that are regulated emissions and provide market-based mechanism for covered entities to demonstrate compliance with program. Sets forth certain other requirements for program and for rules adopted by Director of Carbon Policy Office related to program. Establishes certain funds. Sets forth requirements for uses of moneys deposited in funds. Authorizes Public Utility Commission to allow rate or rate schedule to include differential rates or to reflect amounts for programs that enable public utilities to assist low-income residential customers. Transfers duties, functions and powers of Environmental Quality Commission and Department of Environmental Quality related to greenhouse gas reporting to Carbon Policy Office. Amends greenhouse gas reporting statute. Repeals Energy Facility Siting Council carbon dioxide emissions standards. Includes provisions for treatment of site certificate conditions affected by repeal of carbon dioxide emissions standards. Provides that provisions related to Carbon Policy Office, Oregon Climate Action Program, investment of certain moneys, Public Utility Commission, transfer of duties, and repeal of Energy Facility Siting Council carbon dioxide emissions standards become operative January 1, 2021. Provides for expedited review of certain questions on Act to Supreme Court upon petition by adversely affected party. Declares emergency, effective on passage.

4/1/19 H - Work Session scheduled.
3/29/19 H - Work Session held.
3/25/19 H - Work Session held.
3/2/19 H - Public Hearing held.
3/1/19 H - Public Hearing held.
2/25/19 H - Public Hearing held.
2/23/19 H - Public Hearing held.
2/22/19 H - Public Hearing held.
2/18/19 H - Public Hearing held.
2/15/19 H - Public Hearing held.
2/11/19 H - Informational Meeting held.
2/8/19 H - Informational Meeting held.
2/4/19 H - First reading. Referred to Speaker's desk.
2/4/19 H - Referred to Carbon Reduction.

HB **Position** **Priority**
[5044](#) Oppose 1
[Bill](#)
[Info](#)

Summary: Appropriates moneys from General Fund to Oregon Climate Authority for biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by authority. Limits biennial expenditures by authority from certain lottery moneys. Limits biennial expenditures by authority from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.

1/23/19 H - Assigned to Subcommittee On Natural Resources.
1/15/19 H - Referred to Ways and Means.
1/14/19 H - First reading. Referred to Speaker's desk.

SB **Position** **Priority**
[0089](#) Oppose 1
[Bill](#)
[Info](#)

Summary: Requires Environmental Quality Commission to adopt by rule program for assessing net impacts of state policies and programs for reducing greenhouse gas emissions. Declares emergency, effective on passage.

1/15/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	Position	Priority
<u>0098A</u>	Monitor	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Public Utility Commission to adopt by rule <i>renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers.</i>] large renewable natural gas program and small renewable natural gas program. Requires commission to adopt rules no later than <i>December 31, 2019</i>] July 31, 2020. Takes effect on 91st day following adjournment sine die.	
3/19/19	S - Recommendation: Do pass with amendments and be referred to Ways and Means. (Printed A-Eng.)	
3/19/19	S - Referred to Ways and Means by order of the President.	
3/14/19	S - Work Session held.	
2/7/19	S - Public Hearing held.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0220</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Department of Environmental Quality to conduct study related to greenhouse gas emissions. Sunsets January 2, 2022.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0598</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Changes name of Oregon Global Warming Commission to Oregon Climate Change Commission. Requires commission to appoint executive director. Appropriates moneys to commission for purposes related to executive director of commission. Modifies certain duties of commission and of certain nonvoting members of commission. Modifies certain duties of certain agencies of state government with regard to duties of commission.	
1/17/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0636</u>	Monitor	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Public Utility Commission to adopt by rule renewable natural gas program for natural gas utilities to recover prudently incurred qualified investments in meeting certain targets for including renewable natural gas in gas purchases for distribution to retail natural gas customers. Requires commission to adopt rules no later than December 31, 2019. Takes effect on 91st day following adjournment sine die.	
1/25/19	S - Referred to Environment and Natural Resources.	
1/22/19	S - Introduction and first reading. Referred to President's desk.	
<u>SB</u>	<u>Position</u>	<u>Priority</u>
<u>0902</u>	Oppose	1
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Declares policy of state to encourage sustainable growth by funding reduction of certain taxes with imposition of tax on amount of carbon dioxide equivalent emissions from combustion of certain carbon-based fuels. Imposes tax on each fuel supplier and utility based on amount of carbon dioxide equivalent emissions from combustion of carbon-based fuel that is sold by fuel supplier to consumers in state or that is used to produce carbon-generated electricity supplied by utility to consumers in state. Limits tax on certain oil and natural gas to six percent of market value of oil or natural gas. Distributes moneys collected from tax to General Fund, unless other distribution required under Oregon Constitution. Modifies personal income tax rates for certain taxpayers by modifying income tax brackets. First applies beginning on or after January 1, 2019. Takes effect on 91st day following adjournment sine die.	
3/1/19	S - Referred to Environment and Natural Resources, then Finance and Revenue.	
2/28/19	S - Introduction and first reading. Referred to President's desk.	

<u>HB</u> <u>2093A</u>	Position	Priority
	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Permits Oregon Department of Administrative Services to contract with other entity, and to participate in, sponsor, conduct or administer cooperative procurements, for purpose of acquiring, installing, maintaining or operating devices or facilities to deliver electricity to public for electric motor vehicles. Requires state agency that contracts with other entity for purposes of Act to require other entity to pay prevailing rate of wage. Specifies that solely for purpose of contracting agency's participating in, sponsoring, conducting or administering cooperative procurement, device or facility for delivering electricity to public for electric motor vehicles is not public improvement. Becomes operative on January 1, 2020. Takes effect on 91st day following adjournment sine die.	
3/28/19	H - Recommendation: Do pass with amendments and be printed A-Engrossed.	
3/27/19	H - Work Session held.	
3/25/19	H - Work Session held.	
1/28/19	H - Public Hearing held.	
1/15/19	H - Referred to Rules.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>2242A</u>	Position	Priority
	Monitor	2
		<u>Bill</u> <u>Info</u>
Summary:	<p>Authorizes Public Utility Commission to consider differential energy burden and other inequities of affordability in rates. Authorizes public utilities to enter agreements to provide financial assistance for organizations to represent in regulatory proceedings before commission interests of low-income residential customers and residential customers that are members of environmental justice communities. Establishes Office of the Low-Income and Environmental Justice Advocate within commission. Authorizes office to intervene in certain proceedings.</p> <p>Requires Low-Income and Environmental Justice Advocate to convene advisory group to advise office in discharge of duties. Requires office to report on activities of office to interim committees of Legislative Assembly related to energy no later than December 1, 2021. Directs commission to establish public process for investigating ways to address and mitigate, through nonbypassable means, differential energy burdens on classes of <i>electric company</i> public utility customers and other inequities of affordability and environmental justice. Requires commission to report findings to interim committees of Legislative Assembly related to energy and business no later than September 15, 2020] incorporate findings into commission's 2020 report to Environmental Justice Task Force and Governor. Sunsets public process January 2, 2021.</p>	
3/4/19	H - Recommendation: Do pass with amendments, be printed A-Engrossed, and be referred to Ways and Means by prior reference.	
3/4/19	H - Referred to Ways and Means by prior reference.	
2/26/19	H - Work Session held.	
1/31/19	H - Public Hearing held.	
1/15/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>2322</u>	Position	Priority
	Monitor	2
		<u>Bill</u> <u>Info</u>
Summary:	Requires Land Conservation and Development Commission to amend statewide land use planning goals related to energy to incorporate development of renewable energy facilities and reduction of greenhouse gas emissions and to match state energy policies.	
4/2/19	H - Public Hearing and Possible Work Session scheduled.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2329</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Modifies definition of "energy facility" for purposes of regulation of energy facilities by Energy Facility Siting Council. Broadens provisions for types of electric power generating plants that may elect to obtain site certificate from council if otherwise not required to obtain site certificate.		
4/9/19	H - Work Session scheduled.	
3/5/19	H - Public Hearing held.	
2/28/19	H - Public Hearing held.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2494</u>	Monitor	2
<u>Bill</u>		
<u>Info</u>		
Summary: Extends operation of public purpose charges until January 1, 2036.		
4/2/19	H - Public Hearing and Possible Work Session scheduled.	
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

HB	Position	Priority
<u>2611</u>	Support	2
<u>Bill</u>		
<u>Info</u>		
Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.		
1/18/19	H - Referred to Energy and Environment.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2618</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires State Department of Energy to adopt by rule program for providing rebates for purchase, construction or installation of residential and commercial solar electric systems and paired solar and storage systems. Sets forth rebate limits under program. Establishes Rooftop Solar Incentive Fund. Continuously appropriates moneys in fund to department to issue rebates. Limits total amount of rebates issued annually for commercial systems. Appropriates moneys from General Fund to department for deposit in Rooftop Solar Incentive Fund. Requires department to submit annual report on program to Legislative Assembly. Sunsets January 2, 2024. Takes effect on 91st day following adjournment sine die.	

4/2/19 H - Work Session scheduled.
 2/28/19 H - Public Hearing held.
 1/15/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.
 1/14/19 H - First reading. Referred to Speaker's desk.

<u>HB</u>	Position	Priority
<u>2791</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Modifies cost recovery formula for site certificate holders. Applies to annual fees due on and after July 1, 2020. Establishes Energy Facility Siting Task Force. Sunsets task force on December 31, 2020. Declares emergency, effective on passage.	
1/28/19	H - Referred to Energy and Environment with subsequent referral to Ways and Means.	
1/24/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>2808</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires Oregon Business Development Department to establish competitive clean technology sector development grant program. Requires department to award grants to qualified lenders to develop and administer loan programs for funding clean technology sector development projects. Requires certain reporting related to grant program. Establishes Clean Technology Sector Development Fund. Requires moneys deposited in fund to be used for grant program.	
2/4/19	H - Referred to Economic Development with subsequent referral to Ways and Means.	

1/28/19 H - First reading. Referred to Speaker's desk.

HB **Position** **Priority**
2852 Monitor 2

[Bill](#)
[Info](#)

Summary: Authorizes local governments to form authorities for purpose of implementing community choice aggregation programs. Places certain requirements on electric companies and Public Utility Commission related to implementation of community choice aggregation programs. Applies certain renewable portfolio standards to community choice aggregation programs implemented by authorities. Includes authorities in list of persons subject to public purpose charge.

2/4/19 H - First reading. Referred to Speaker's desk.

2/4/19 H - Referred to Energy and Environment with subsequent referral to Ways and Means.

HB **Position** **Priority**
2855 Monitor 2

[Bill](#)
[Info](#)

Summary: Modifies general powers of Public Utility Commission.

3/28/19 H - Public Hearing held.

2/4/19 H - Referred to Energy and Environment.

1/31/19 H - First reading. Referred to Speaker's desk.

HB **Position** **Priority**
2857 Oppose 2

[Bill](#)
[Info](#)

Summary: Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility.

4/4/19 H - Work Session scheduled.
3/28/19 H - Public Hearing held.
3/26/19 H - Public Hearing held.
2/4/19 H - Referred to Energy and Environment.
1/31/19 H - First reading. Referred to Speaker's desk.

HB **Position** **Priority**
[3025](#) Monitor 2
[Bill](#)
[Info](#)

Summary: Requires State Forestry Department to establish Western Oregon Regional Carbon Sink as geographical area and take certain actions regarding area on or before January 1, 2031. Establishes Task Force on Western Oregon Regional Carbon Sink. Sunsets task force on December 31, 2020. Establishes Western Oregon Regional Carbon Sink Advisory Board. Declares emergency, effective on passage.

4/4/19 H - Public Hearing and Possible Work Session scheduled.
2/25/19 H - Referred to Natural Resources.
2/21/19 H - First reading. Referred to Speaker's desk.

HB **Position** **Priority**
[3027](#) Monitor 2
[Bill](#)
[Info](#)

Summary: Authorizes State Treasurer to issue general obligation bonds under Article XI-E of Oregon Constitution in amount that produces \$500 million in net proceeds for Strategic Carbon Sequestration and Forestry Sustainability Program. Directs State Forestry Department to establish Strategic Carbon Sequestration and Forestry Sustainability Program.

2/27/19 H - Referred to Revenue with subsequent referral to Ways and Means.
2/21/19 H - First reading. Referred to Speaker's desk.

<u>HB</u> <u>3229</u>	Position	Priority
	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Repeals provisions of law related to collection of surcharge for removal of Klamath River dams upon failure of relevant parties to begin dam removal. Establishes Klamath Fish Habitat Enhancement Fund. Directs certain moneys collected for removal of Klamath River dams to be transferred to fund for watershed enhancement projects that serve to improve salmon and trout habitat near Klamath River dams. Directs certain moneys collected for removal of Klamath River dams to be used by PacifiCorp for activities related to compliance with federal regulatory requirements. Repeals, on January 2, 2021, the repeal of provisions of law related to collection of surcharge for removal of Klamath River dams removal if Public Utility Commission reports to Legislative Counsel and Legislative Assembly that dam removal began on or before December 31, 2019. Declares emergency, effective on passage.	
3/11/19	H - Referred to Natural Resources with subsequent referral to Ways and Means.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u> <u>3274</u>	Position	Priority
	Oppose	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires eight percent of electricity sold in this state by each electric company that makes sales to 25,000 or more retail electricity consumers to be generated by small-scale renewable energy facilities or certain biomass facilities. Increases, to 100 average megawatts of electricity per year, amount of electricity generated by certified low-impact hydroelectric facilities that may be used to comply with renewable portfolio standards. Allows renewable energy certificates issued at any time for electricity generated by certified low-impact hydroelectric facility to be banked and carried forward indefinitely. Establishes, for purposes of public utilities that provide electric power to consumers in this state, additional standards for purchase of energy or energy and capacity from qualifying facilities. Allows person injured by certain violations by public utility related to purchase and sale of energy or energy and capacity to recover treble damages from public utility. Declares jurisdiction of Public Utility Commission over certain matters related to qualifying facilities.	
4/4/19	H - Work Session scheduled.	
3/28/19	H - Public Hearing held.	
3/26/19	H - Public Hearing held.	
3/11/19	H - Referred to Energy and Environment.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>3325</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires public utility to meet certain requirements for processing applications from nonresidential customer-generators to interconnect to electric distribution system net metering facility that has generating capacity of more than 25 kilowatts but less than two megawatts. Requires Public Utility Commission to adopt rules requiring public utilities to equitably apportion costs of engineering, construction or installation of facilities within public right of way that will allow for safe interconnection of multiple net metering facilities.	
3/26/19	H - Public Hearing held.	
3/21/19	H - Public Hearing held.	
3/11/19	H - Referred to Energy and Environment.	
3/4/19	H - First reading. Referred to Speaker's desk.	

<u>HB</u>	Position	Priority
<u>5017</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Appropriates moneys from General Fund to Department of Environmental Quality for certain biennial expenses. Limits biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, specified bond proceeds and specified federal funds, but excluding lottery funds and other federal funds, collected or received by department. Limits biennial expenditures from lottery moneys allocated from Parks and Natural Resources Fund to department. Authorizes specified nonlimited expenditures. Limits certain biennial expenditures by department from federal funds. Declares emergency, effective July 1, 2019.	
2/21/19	H - Public Hearing held.	
2/20/19	H - Public Hearing held.	
2/19/19	H - Public Hearing held.	
2/18/19	H - Public Hearing held.	
1/23/19	H - Assigned to Subcommittee On Natural Resources.	
1/15/19	H - Referred to Ways and Means.	
1/14/19	H - First reading. Referred to Speaker's desk.	

<u>SB</u>	Position	Priority
<u>0038</u>	Support	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Modifies provisions for treatment of renewable energy certificates issued for generation of thermal energy.	

3/7/19	H - Public Hearing held.
2/13/19	H - Referred to Energy and Environment.
2/6/19	H - First reading. Referred to Speaker's desk.
2/5/19	S - Third reading. Carried by Prozanski. Passed.
1/31/19	S - Recommendation: Do pass.
1/31/19	S - Second reading.
1/29/19	S - Work Session held.
1/22/19	S - Public Hearing held.
1/15/19	S - Referred to Environment and Natural Resources.
1/14/19	S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0068 No Position 2

[Bill](#)
[Info](#)

Summary: Increases annual fee imposed on public utilities and telecommunications providers for purpose of defraying costs of Public Utility Commission. Declares emergency, effective on passage.

3/28/19	S - Returned to Full Committee.
3/28/19	S - Public Hearing and Work Session held.
3/6/19	S - Assigned to Subcommittee On Transportation and Economic Development.
2/4/19	S - Recommendation: Without recommendation as to passage and be referred to Ways and Means.
2/4/19	S - Referred to Ways and Means by order of the President.
1/31/19	S - Public Hearing and Work Session held.
1/15/19	S - Referred to Business and General Government.
1/14/19	S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0091 Oppose 2

[Bill](#)
[Info](#)

Summary: Requires at least 50 percent of public purpose charge funds paid to nongovernmental entity to be invested in providing incentives to retail electricity customers for accelerating transportation electrification. Specifies that accelerating transportation electrification qualifies as new market transformation effort for purposes of public purpose charge expenditure standard.

1/15/19	S - Referred to Environment and Natural Resources.
1/14/19	S - Introduction and first reading. Referred to President's desk.

SB	Position	Priority
<u>0267</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Becomes operative on January 1, 2020. Requires loan contracts to make loans payable in full in event that Director of Oregon Business Development Department formally declares default of payment of loan or that project that is subject of loan fails to meet standards and criteria for projects. Becomes operative on January 1, 2020. Repeals certain provisions related to small scale local energy projects. Abolishes funds associated with provisions. Transfers moneys from abolished funds to Small Scale Local Energy Project Loan Fund. Appropriates moneys from General Fund to Oregon Business Development Department for purposes of Act. Repeals energy efficiency and sustainable technology loan program. Requires State Department of Energy to conduct audit of certain department activities. Declares emergency, effective on passage.	
1/15/19	S - Referred to Environment and Natural Resources.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

SB	Position	Priority
<u>0451</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Establishes eligibility for renewable energy certificates for facilities that generate electricity from direct combustion of municipal solid waste and became operational before January 1, 1995, if such facilities register with Western Renewable Energy Generation Information System at any time.	
4/2/19	S - Work Session scheduled.	
3/12/19	S - Public Hearing held.	
1/28/19	S - Recommendation: Without recommendation as to passage and be returned to President's desk for referral. Referred to Environment and Natural Resources by order of the President.	
1/25/19	S - Work Session held.	
1/17/19	S - Referred to Carbon Reduction.	
1/14/19	S - Introduction and first reading. Referred to President's desk.	

SB	Position	Priority
<u>0503</u>	Support	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.	

1/16/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0508 Support 2
[Bill](#)
[Info](#)

Summary: Specifies that electricity generated by hydroelectric facility or other equipment that generates electricity through use of hydroelectric energy may be used to comply with renewable portfolio standard.
3/7/19 S - Public Hearing held.
1/16/19 S - Referred to Environment and Natural Resources.
1/14/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0712 Monitor 2
[Bill](#)
[Info](#)

Summary: Reduces, to 0.15 percent, percentage of energy resource supplier's gross operating revenue that annual energy resource supplier assessment may not exceed.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0713 Monitor 2
[Bill](#)
[Info](#)

Summary: Requires State Department of Energy to conduct study on department's contributions to leading State of Oregon to safe, clean and sustainable energy future.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

SB **Position** **Priority**
0714 Monitor 2
[Bill](#)
[Info](#)

Summary: Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.
1/30/19 S - Referred to Environment and Natural Resources.
1/29/19 S - Introduction and first reading. Referred to President's desk.

<u>SB</u>	Position	Priority
<u>0715</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Requires State Department of Energy to conduct study related to Energy Facility Siting Council and report findings to interim committees of Legislative Assembly by September 15, 2021.	
1/30/19	S - Referred to Environment and Natural Resources.	
1/29/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>0928</u>	Oppose	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Establishes Oregon Climate Authority. Establishes Oregon Climate Board. Transfers greenhouse gas reporting program from Department of Environmental Quality to Oregon Climate Authority. Abolishes State Department of Energy. Transfers duties, functions and powers of State Department of Energy related to issuance of loans for small scale local energy projects to Oregon Business Development Department. Transfers remaining duties, functions and powers of State Department of Energy to Oregon Climate Authority. Modifies permissible uses of energy supplier assessment. Abolishes Sustainability Board and Oregon Global Warming Commission. Establishes Energy Program Review Task Force. Becomes operative January 1, 2020. Declares emergency, effective on passage.	
4/8/19	S - Public Hearing and Possible Work Session scheduled.	
3/6/19	S - Referred to Environment and Natural Resources.	
3/4/19	S - Introduction and first reading. Referred to President's desk.	

<u>SB</u>	Position	Priority
<u>5534</u>	Monitor	2
	<u>Bill</u>	
	<u>Info</u>	
Summary:	Limits certain biennial expenditures from fees, moneys or other revenues, including Miscellaneous Receipts, but excluding lottery funds and federal funds, collected or received by Public Utility Commission of Oregon. Limits biennial expenditures by commission from federal funds. Authorizes specified nonlimited expenditures. Declares emergency, effective July 1, 2019.	
3/28/19	S - Returned to Full Committee.	
3/28/19	S - Work Session held.	
1/30/19	S - Public Hearing held.	
1/23/19	S - Assigned to Subcommittee On Transportation and Economic Development.	
1/15/19	S - Referred to Ways and Means.	

1/14/19

S - Introduction and first reading. Referred to President's desk.

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MEMORANDUM

Attorney/Client Privilege

March 26, 2019

TO: John Carr, Ed Finklea, J.L. Wilson, Justen Rainey
AWEC Oregon Members

FROM: Tyler Pepple

RE: Analysis of Omnibus Amendments to HB 2020 – Cap and Trade Legislation

I. INTRODUCTION

On March 25, 2019, the Joint Committee on Carbon Reduction released the “-31” amendments to HB 2020 (the “Amendments”), Oregon’s proposed cap and trade legislation. The Amendments are an omnibus set of amendments that include both technical fixes and make substantive changes to the original legislation. Nevertheless, the Amendments include few improvements from the original legislation for business and in some cases are detrimental. Natural gas utilities and suppliers remain fully regulated under the act, with natural gas utilities continuing to receive free allowances only to offset cost increases for their low-income customers. Electricity service suppliers serving direct access customers also remain fully exposed to cost increases. The temporary exemption for certain greenhouse gases emitted in semiconductor operations would be eliminated. Further, the process for allocating allowances to “emissions-intensive, trade-exposed” (“EITE”) entities would change significantly, but with unclear impacts.

II. ANALYSIS

The discussion below identifies changes from the original HB 2020 and analyzes their impact relative to the previous version. For analysis of sections that are unchanged from the original bill, please refer to the previous memorandum provided to the AWEC membership on February 8, 2019.

A. General changes to the cap and trade program

The Amendments would make two substantive changes to the general provisions governing the cap and trade program. First, they specify that the program regulates only “anthropogenic emissions,” thus excluding “biogenic emissions,” which occur from the combustion of biomass fuels. Second, they modify the baseline for achieving emissions reductions. The program still requires a reduction of carbon emissions to at least 80% below 1990 levels by 2050, but whereas the original bill required these reductions based on the average of the three most recent years for which data is available prior to 2021, the Amendments would set the baseline at a forecast of 2021 emissions, using these same three prior years. Thus, while the original bill includes an objective and transparent measurement of the baseline, the Amendments leave room for subjectivity in developing the 2021 forecast.

B. Natural gas remains fully regulated

Despite repeated complaints from customers, the natural gas industry, and utilities, the Amendments make no substantive changes to the regulation of natural gas under the cap and trade program. Customers that do not qualify as low-income or as EITE will be responsible, directly or indirectly, for the full cost of allowances necessary to cover their natural gas consumption.

The Amendments do include a new definition of “natural gas supplier” (which was not defined in the original bill), which appears to be vastly overbroad in that it includes “any entity that is not a natural gas utility and: (a) That procures natural gas for end use in this state.” Read literally, this definition would encompass every end user of natural gas in the state, including every residential customer. As a practical matter, however, the breadth of this definition may be immaterial because the bill only regulates natural gas suppliers with respect to the combustion of natural gas that the supplier *sells* for use in Oregon by persons that are not designated as covered entities. Nevertheless, the definition of “natural gas supplier” could create unintended consequences and members should review this definition within the context of their specific circumstances.

C. Direct access electricity customers are potentially worse off than under the original bill

As in the original bill, the Amendments make no provision for free allowances to direct access customers, despite the fact that their electricity service suppliers are subject to the same renewable portfolio standard requirements as the electric utilities. In addition, the Amendments provide further specificity over the approved use of auction allowance proceeds for the benefit of an electric company’s customers. The original bill included vague and general provisions stating that an electric company could use these proceeds for “bill assistance” and “rate design based solutions,” thereby at least providing an opportunity to argue at the Public Utility Commission (“PUC”) that direct access customers should receive a portion of these allowance revenues under these provisions. The Amendments, conversely, limit “bill assistance” to low-income customers. The Amendments specify that this type of assistance, as well as other investments, are to be “prioritized,” so some assistance to offset increased costs for direct access customers is not entirely foreclosed, but for purposes of analysis of this bill, members should

assume that the PUC will not require electric companies to provide allowance revenues to direct access customers.

D. Electric utilities remain fully insulated from cost impacts through 2030.

HB 2020 as originally drafted contained the most protections for PGE and PacifiCorp, giving them 100% free allowances through 2030. That has not changed (though minor modifications were made to the calculation of free allowances for the utilities in 2030), and if anything the protections have become stronger. A new section 52, for instance, requires the PUC to “establish a process to ensure prudent, appropriate and contemporaneous cost recovery for public utilities” This is likely to ensure that PGE and PacifiCorp fully recover any costs of compliance with cap and trade immediately from customers.

E. The Amendments do not substantively impact BPA customers

The Amendments make a few technical changes to Section 12, governing the distribution of allowances to consumer-owned utilities or their electric system managers, but the overall requirements remain unchanged: consumer-owned utilities with attributable emissions below 25,000 metric tons remain exempt, and all others receive 100% free allowances in 2021, declining at a constant rate thereafter.

F. The Amendments would substantively modify allowance allocations to EITEs

Significant changes have been made to the sections governing the designation of EITEs and the provision of free allowances to them. First, the bill clarifies that non-covered entities may opt-in as EITE to receive free allowances. This was likely the intent in the original version, it but was unclear. Second, the Amendments modify the listed EITE classifications to identify them by NAICS group (i.e., the first four digits) rather than specific industry code. Overall, this appears to be slightly more inclusive, though NAICS Code 212319 covering Other Crushed and Broken Stone Mining and Quarrying has been dropped from the list. The Amendments add Code 3211, covering Sawmills and Wood Preservation, and Code 3315, covering Foundries, but aerospace and industrial gas manufacturing, among others, remain excluded from explicit EITE designation. All other EITE classifications from the original bill remain. The Amendments also would continue to allow the Carbon Policy Office (“CPO”) to designate additional EITE categories through rulemaking.

HB 2020 as introduced provides 100% free allowances to EITEs in 2021 based on a unit-specific emissions calculation. For industries with three or more facilities in the state, the calculation is based on the industry average; for industries with one or two facilities, it is facility-specific. Free allowances then decline at a constant rate after 2021. Under the Amendments, the unit-specific emissions calculation would be maintained, but it would apply to each EITE entity individually, regardless of the number of facilities in the state. Additionally, entities would receive free allowances to cover 95% of their unit-specific emissions in 2021 through 2023.

After that, and until 2050, the allocation of free allowances would be based on a “best available technology” (“BAT”) determination. BAT is defined as “the technology that will

most efficiently reduce the greenhouse gas emissions associated with the manufacture of a good, without changing the characteristics of the good being manufactured, that is technically feasible, commercially available, economically viable and compliant with all applicable laws.” By January 1, 2024, the CPO is required to adopt BAT for each good manufactured by an EITE entity and update it every six years. This determination may be influenced by reports and audits the EITE entity may provide to the CPO. It appears that the intention is for the CPO to allocate free allowances based on the emissions that would result if the EITE were implementing BAT in its processes. However, the Amendments do not specifically include this requirement, and do not specify whether the allocation should cover 100% of emissions under BAT or 95%, as would be allocated to EITEs until 2023 while BAT is being developed. Thus, uncertainty remains over the number of allowances an EITE will receive.

G. The Amendments would eliminate the temporary exemption for “f-gases”

HB 2020 in its current form establishes an exemption from regulation for fluorinated gases (“f-gases”) produced during semiconductor manufacturing until 2026. That temporary exemption is eliminated entirely in the proposed amended version. The cost impact to affected facilities of eliminating this exemption, however, is somewhat unclear because semiconductor manufacturers are also eligible for free allowances as EITEs. Consequently, it would seem that the cost impact of removing the exemption would be associated with any allowances affected facilities would need to purchase associated with f-gas emissions that would not already be covered by freely allocated allowances.

H. The Amendments include additional specificity in the use of auction proceeds for natural gas utilities and EITEs

The Amendments also make a number of substantive changes to how auction revenue is to be used. As discussed in our memo on the original bill, the legislation establishes certain funds to ensure compliance with constitutional requirements related to transportation and school funding. Two percent of the remaining revenues are allocated to fund the CPO, and the rest goes to the Climate Investments Fund. Among other things, the Amendments would require the CPO to develop a “biennial climate action investment plan.” The plan is intended to “identify the short-term and long-term objectives of the state for making expenditures and investments” from the Climate Investments Fund. With regard to these objectives, the Amendments provide guidance to the CPO. This includes encouragement to invest: (1) an amount in energy efficiency that is “approximately equal to” the amount received through proceeds from allowance purchases by natural gas utilities; and (2) approximately half the amount received from allowance purchases by EITEs to assist them in implementing BAT for their facilities.

I. Miscellaneous changes

The Amendments include a host of additional changes to HB 2020 that are less relevant to the AWEC membership as a whole, but may be of interest to individual members.

Please feel free to contact me about any of them to discuss further. For instance, the Amendments provide further detail on the creation and determination of carbon offsets as eligible compliance instruments. They also establish the procedure for the sale of allowances if the hard price ceiling in an auction is reached and allowances in all reserve accounts have been sold. In that instance, the CPO may sell additional allowances at the hard price ceiling to ensure covered and opt-in entities may achieve compliance. Proceeds from the sale of these allowances go into a separate fund to purchase and retire offset credits.

The Amendments also provide additional exemptions from disclosure under the public records law for certain individually identifiable information provided to enable participation in allowance auctions and to establish good-specific emissions factors for EITEs. Aggregated information remains disclosable, however.

A new section also empowers the CPO to assess civil penalties for violations of any requirements in the cap and trade program. Penalties are up to \$10,000 per day, unless the violation is determined to be “intentional, reckless or negligent,” in which case penalties can be as high as \$25,000 per day.

Forestry carbon offsets in existing law are eliminated in the proposed Amendments to HB 2020, likely because the Amendments also include new offset protocols related to forestry within the cap and trade program.

The Amendments also require the CPO to prepare a report no later than January 1, 2025 analyzing whether the current exclusion from regulated emissions for aviation fuel and fuel used in watercraft and railroad locomotives should be maintained.

Finally, HB 2020 exempts from regulation emissions associated with the direct combustion of municipal solid waste to generate renewable energy. The Amendments eliminate this exemption, which could impact any electric cooperative members of PNGC Power (and by extension customers of those cooperatives), which owns Coffin Butte, a facility that would fall within this exemption.

III. CONCLUSION

While extensive, it would be wrong to present the new Amendments to HB 2020 as a wholesale rewrite of the bill. In fact, HB 2020 would be fundamentally unchanged if the Amendments were adopted. While some AWEC members may be better or worse off due to changes to EITE designations and allowance allocations, or the removal of the temporary exemption for f-gases, broader categories of customers are largely unaffected. Customers who are not EITE remain fully exposed to increased natural gas costs, as do direct access customers with respect to electricity costs. Changes to allowance allocations for EITEs are material and appear to result in a more consistent allocation of allowances over time, but introduction of the BAT analysis creates new uncertainties for individual facilities, and a number of AWEC members remain excluded from an explicit EITE designation.

Please feel free to contact me if you have any questions or would like to discuss any of the Amendments in more detail.